



Queensland

Transport and Other Legislation Amendment Act 2005

Act No. 67 of 2005



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Queensland

Transport and Other Legislation Amendment Act 2005

Act No. 67 of 2005

**An Act to amend particular Acts administered by the Minister
for Transport, and for other purposes**

[Assented to 8 December 2005]

The Parliament of Queensland enacts—**Part 1 Preliminary****1 Short title**

This Act may be cited as the *Transport and Other Legislation Amendment Act 2005*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

Part 2 Amendment of Acquisition of Land Act 1967**3 Act amended in pt 2**

This part amends the *Acquisition of Land Act 1967*.

4 Amendment of s 2 (Definitions)

(1) Section 2, definitions *approved local government*, *gazette resumption notice* and *notification of resumption*—

omit.

(2) Section 2—

insert—

‘gazette resumption notice means the gazette notice mentioned in section 9(7).’.

5 Amendment of s 7 (Notice of intention to take land)

Section 7(4B), from ‘section 9(3)’ to ‘resume’—

omit, insert—

‘section 9(2) has not been made within the time prescribed by section 9(3)’.

6 Amendment of s 9 (Means by which land to be taken other than by Brisbane City Council or an approved local government)

(1) Section 9, heading—

omit, insert—

‘9 Ways in which land is to be taken’.

(2) Section 9(1)—

omit.

(3) Section 9(2), (3) and (3A)—

renumber as section 9(1), (2) and (3).

7 Omission of s 10 (Means by which land to be taken by Brisbane City Council or an approved local government)

Section 10—

omit.

8 Amendment of s 12 (Effect of gazette resumption notice)

(1) Section 12(1)(b)—

omit.

(2) Section 12(1)(a)(i) and (ii)—

renumber as section 12(1)(a) and (b).

(3) Section 12(1), from ‘subsection (4)’ to ‘land taken by a gazette’—

omit, insert—

‘subsection (4), land taken by a gazette’.

(4) Section 12(4), ‘, including Brisbane City Council,’—

omit.

- (5) Section 12(6)(b), ‘or, as the case may be, 7, 8 and 10’—
omit.
- (6) Section 12(7), ‘or, as the case may be, Brisbane City Council’—
omit.

9 Amendment of s 15 (Taking by agreement)

- (1) Section 15(1A), ‘, 9 and 10 (other than subsections (5) to (7) thereof)’—
omit, insert—
‘and 9’.
- (2) Section 15(3), (4), (4A), (6C), (7), (7A) and (7B)—
omit.
- (3) Section 15(3C), ‘(3A)’—
omit, insert—
‘(7)’.
- (4) Section 15(5), ‘(3A) or (4)’—
omit, insert—
‘(7)’.
- (5) Section 15(6)(b), ‘(5)’—
omit, insert—
‘(10)’.
- (6) Section 15(6A), ‘(3A)’—
omit, insert—
‘(7)’.
- (7) Section 15(8), ‘or 10’—
omit.
- (8) Section 15(9), from ‘under subsection (3)’ to ‘subsection (7)’—
omit, insert—

‘under subsection (7)’.

- (9) Section 15(1A) to (9)—
renumber as section 15(2) to (15).

10 Amendment of s 16 (Discontinuance of resumption before proclamation or notification of resumption)

- (1) Section 16, heading—
omit, insert—

‘16 Discontinuance of resumption before publication of gazette resumption notice’.

- (2) Section 16(2), from ‘section 9(3)’ to ‘intention to resume’—
omit, insert—
 ‘section 9(2) has not been made within the time prescribed by section 9(3)’.

11 Amendment of s 17 (Revocation before determination of compensation)

- (1) Section 17(1), ‘or Brisbane City Council’—
omit.
 (2) Section 17(2)(b), ‘or Brisbane City Council’—
omit.

12 Replacement of pt 6, hdg (Transitional provisions)

Part 6, heading—
omit, insert—

‘Part 6 Transitional and other provisions

‘Division 1 Provision for Acquisition of Land Amendment Act 1999’.

13 Insertion of new pt 6, div 2

After section 44—

insert—

‘Division 2 Provision for Transport and Other Legislation Amendment Act 2005**‘45 Transitional provision for taking of land by Brisbane City Council and other local governments**

‘(1) This section applies if, before the commencement, Brisbane City Council or another local government had—

- (a) under section 7, served a notice of intention to resume for land on a person; but
- (b) a notification of resumption for the land had not been published in the gazette.

‘(2) After the commencement—

- (a) Brisbane City Council or the other local government may continue to take the land as if the *Transport and Other Legislation Amendment Act 2005*, part 2 had not been enacted; and
- (b) this Act applies to the taking of the land as if the *Transport and Other Legislation Amendment Act 2005*, part 2 had not been enacted.

‘(3) In this section—

commencement means the commencement of this section.

notification of resumption means a notice published in the gazette under section 10(2) as in force before the commencement.’.

- (i) the amendment under section 373C of a covenant.
- ‘(2) If land affected by the dealing is transport land, despite a provision mentioned in subsection (1), the Minister’s approval is not required for the dealing or the registration of a document for the dealing.’.

17 Amendment of sch 6 (Dictionary)

Schedule 6, definition *transport land*—

insert—

- ‘(e) State toll road corridor land as defined under the *Transport Infrastructure Act 1994*;
- (f) local government tollway corridor land as defined under the *Transport Infrastructure Act 1994*.’.

Part 4 Amendment of Property Law Act 1974

18 Act amended in pt 4

This part amends the *Property Law Act 1974*.

19 Amendment of s 179 (Right to support of land and buildings)

Section 179, from ‘on it’—

omit, insert—

‘on or below it that will withdraw support from any other land or from any building, structure or erection that has been placed on or below it.’.

Part 5 Amendment of Transport Infrastructure Act 1994

20 Act amended in pt 5

This part amends the *Transport Infrastructure Act 1994*.

21 Insertion of new s 3A

After section 3—

insert—

‘3A Notes in text

‘A note in the text of this Act is part of the Act.’.

22 Replacement of ch 6, pt 6, hdg (Franchised roads)

Chapter 6, part 6, heading—

omit, insert—

‘Part 6 State toll road corridor land and franchised roads

‘Division 1 Preliminary’.

23 Insertion of new ch 6, pt 6, div 2

After section 84—

insert—

‘Division 2 State toll road corridor land

‘84A Declaration of land as State toll road corridor land

‘(1) The Minister may, by gazette notice, declare the following land to be State toll road corridor land—

(a) land that is a road under the *Land Act 1994*;

- (b) land, not mentioned in paragraph (a), that is held by the State.
- ‘(2) The land must be—
- (a) identified specifically in the gazette notice; or
 - (b) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available to be read at an office of the department mentioned in the gazette notice.
- ‘(3) The declaration of land as State toll road corridor land may be subject to conditions, included in the declaration under subsection (1), the Minister considers necessary or desirable in the circumstances.

‘84B State toll road corridor land on rail corridor land

- ‘(1) This section applies if, under section 84A, the Minister intends to declare a road, or part of a road, that crosses rail corridor land and continues on the other side of the rail corridor land to be State toll road corridor land.
- ‘(2) Before making the declaration, the Minister must—
- (a) consult with the railway manager, if any, for the rail corridor land; and
 - (b) give the railway manager a reasonable opportunity to make submissions to the Minister about the intended declaration.
- ‘(3) If the Minister decides to declare the road, or part of the road, to be State toll road corridor land, the declaration under section 84A must also declare the part of the rail corridor land where it is crossed by the road to be a common area (***common area***) for the rail corridor land and the State toll road corridor land.
- ‘(4) When the common area is declared—
- (a) the chief executive may construct, maintain and operate a toll road on the common area in a way not inconsistent with its use as rail corridor land; and

Examples for paragraph (a)—

- a bridge or other structure over a railway

- a bridge or other structure that allows the toll road to pass under the railway
 - (b) the railway manager, if any, for the rail corridor land may construct, maintain and operate a railway on the common area in a way not inconsistent with its use as a toll road; and
 - (c) the railway manager and its agents or employees do not have any liability for the toll road or its use or operation on the common area.
- ‘(5) Unless the chief executive and the railway manager, if any, for the rail corridor land otherwise agree—
- (a) subject to section 251,¹ the chief executive is responsible for maintaining a toll road on the common area; and
 - (b) if the toll road on the common area stops being used, the chief executive is responsible for the cost of removing road transport infrastructure from the common area and restoring the railway.
- ‘(6) The State is taken not to be in breach of any of its obligations in a sublease of the rail corridor land, whether entered into before or after the commencement of this section, between the State and the railway manager by—
- (a) the Minister’s declaration; or
 - (b) anything done by the chief executive under this chapter for the common area.
- ‘(7) If a declaration under section 84A includes a common area—
- (a) the chief executive must, as soon as practicable, give a copy of the gazette notice of the declaration to the registrar of titles; and
 - (b) the registrar of titles must record the declaration on the relevant lease of the rail corridor land to the State and any affected sublease in the leasehold land register; and

1 Section 251 (Maintaining roads crossing railways)

- (c) any existing common area on the part of the rail corridor land where it is crossed by the road is, on the publication of the declaration, extinguished.

‘84C Effect on land of State toll road corridor land declaration

- ‘(1) If a road, or part of a road, under the *Land Act 1994* is declared under section 84A to be State toll road corridor land, the road or part—
 - (a) stops being a road under that Act; and
 - (b) becomes unallocated State land.
- ‘(2) If a lot, or part of a lot, under the *Land Title Act 1994* is declared under section 84A to be State toll road corridor land, the lot or part becomes unallocated State land.
- ‘(3) If land, other than land mentioned in subsection (1) or (2) or unallocated State land, is declared under section 84A to be State toll road corridor land, the land becomes unallocated State land.
- ‘(4) The Governor in Council must lease State toll road corridor land to the State under the *Land Act 1994*, section 17.
- ‘(5) The lease is in perpetuity and, if demanded, for a rent of \$1 a year.
- ‘(6) The State may lease State toll road corridor land to another person.
- ‘(7) The lease under subsection (6) may include an option to renew the lease.
- ‘(8) The terms of the lease under subsection (6), including an option to renew the lease, and a renewed lease are to be decided by the Minister.
- ‘(9) The *Land Act 1994*, sections 157, 183, 204, 211 and 336(2)(a) and (c) do not apply to a lease or sublease of State toll road corridor land.

‘Division 3 Franchised roads’.

25 Amendment of s 92 (Definitions for pt 7)

- (1) Section 92, definitions *administration charge*, *E toll only pay point*, *exempt vehicle*, *registered operator*, *registration Act*, *toll plaza* and *valid account*—
omit.
- (2) Section 92—
insert—
‘user administration charge, for a toll, means the user administration charge set, under a gazette notice under section 93, for persons making payment of the toll other than in cash or by use of the E toll system.’.
- (3) Section 92, definitions *designated vehicle* and *toll road*, ‘regulation’—
omit, insert—
‘gazette notice’.

26 Replacement of s 93 (Tolls)

Section 93—
omit, insert—

‘93 Tolls

- ‘(1) The Minister may, by gazette notice, declare that any of the following is a toll road—
- (a) a State-controlled road or part of a State-controlled road;
 - (b) a franchised road or part of a franchised road;
 - (c) State toll road corridor land or part of State toll road corridor land.
- ‘(2) A declaration under subsection (1) must include notice of the matters mentioned in schedule 5 for the toll road.
- ‘(3) A toll may be set in a way that applies differently—
- (a) to different classes of vehicles; or
 - (b) by reference to stated exceptions or factors.

- ‘(4) Subsection (3) does not limit schedule 5 or the *Statutory Instruments Act 1992*.
- ‘(5) An administration charge, under a gazette notice under subsection (1), for a toll must not be more than the reasonable cost, under this division, of issuing a notice for, and collecting, the unpaid toll and administration charge for the toll.
- ‘(6) A user administration charge, under a gazette notice under subsection (1), for a toll must not be more than the reasonable cost, under this division, of administering and collecting payment of the toll.’.

27 Amendment of s 94 (Liability for toll and satisfying the liability)

- (1) Section 94, heading, after ‘toll’—
insert—
‘and user administration charge’.
- (2) Section 94(1), from ‘for the toll payable’—
omit, insert—
‘for—
 - (a) the toll payable at the toll plaza for the use of the toll road by the vehicle; and
 - (b) if the driver satisfies the driver’s liability under paragraph (a) other than in cash or by use of the E toll system—the user administration charge for the toll.’.
- (3) Section 94(2), after ‘unpaid toll’—
insert—
‘or user administration charge’.
- (4) Section 94(3)—
omit, insert—
‘(3) However, the driver is not liable to pay the amount of the user administration charge for the toll if the toll is unpaid because—

- (a) the driver's transponder or other electronic device is faulty through no fault of the driver and the driver is unaware it is faulty; or
 - (b) the E toll system is faulty or otherwise inoperable.
- '(3A) The driver may satisfy the driver's liability for the toll payable at a toll plaza by—
- (a) if a part of the toll plaza is designated by appropriate signs as available for making a toll payment in cash—making a payment in cash of the toll payable; or
 - (b) if a part of the toll plaza is designated by appropriate signs as available for making a toll payment by using a touch tag—using a touch tag as required by the toll road operator; or
 - (c) if there is an E toll only pay point at the toll plaza, or another part of the toll plaza designated by appropriate signs as available for using the E toll system—using the E toll system as required under section 95(1); or
 - (d) if a gazette notice under section 93 provides another way of making the payment—making the payment in that way.'

28 Amendment of s 97 (Definition for div 3)

Section 97, definition *deferred toll amount*—

insert—

- '(c) the amount of the user administration charge for the toll.'

29 Replacement of s 98 (Liability for administration charge in addition to unpaid toll)

Section 98—

omit, insert—

'98 Liability for administration charge in addition to unpaid toll and user administration charge

- '(1) If this division applies to a driver, the driver immediately becomes liable to pay the toll road operator, in addition to the

unpaid toll and the user administration charge for the toll, the amount of the administration charge for the toll.

- ‘(2) However, the driver is not liable under subsection (1) to pay the amount of the administration charge for the toll if the toll is unpaid because—
- (a) the driver’s transponder or other electronic device is faulty through no fault of the driver and the driver is unaware it is faulty; or
 - (b) the E toll system is faulty or otherwise inoperable.’.

30 Amendment of s 99 (Notice to vehicle’s registered operator)

Section 99(2)(b)(i), before ‘establishes’—

insert—

‘if the registered operator is an individual—’.

31 Insertion of new s 99A

After section 99—

insert—

‘99A Corporation may be taken to be driver of vehicle

- ‘(1) This section applies if the registered operator of the vehicle—
- (a) is a corporation; and
 - (b) fails to give the toll road operator all the help, under section 99(2)(b)(ii), the registered operator can reasonably give to enable the toll road operator to establish the name and address of the driver of the vehicle.
- ‘(2) The registered operator of the vehicle is taken to be the driver of the vehicle for sections 94 and 98.’.

32 Insertion of new ch 6, pt 8

After section 105—

insert—

‘Part 8 Local government tollways

‘Division 1 Preliminary

‘105A Objectives of pt 8

‘The objectives of this part are—

- (a) to provide a framework for the management and operation of local government tollway corridor land; and
- (b) to ensure transport infrastructure on local government tollway corridor land is—
 - (i) developed as an integrated and affordable transport system consistent with public transport infrastructure and the existing road network; and
 - (ii) integrated with the objectives of land use planning; and
 - (iii) provided in a coordinated and efficient way with an acceptable level of community access; and
 - (iv) responsive to community needs and the challenges of further growth; and
 - (v) financially viable.

‘105B Definitions for pt 8

‘In this part—

approved tollway project means a tollway project approved under section 105C(2) to be an approved tollway project.

designated vehicle means a vehicle, other than an exempt vehicle, of a type in relation to which a toll is payable under a notice under section 105ZB(4).

E toll system means an electronic system operated by a local government tollway operator for the recording, or the recording and meeting, of liability for a toll for use of the local government tollway.

local government franchised road means land to which a local government tollway franchise agreement applies, and includes facilities identified in the local government tollway franchise agreement that are on or for the tollway and relate to the operation or servicing of the tollway or facilities for tollway users.

local government tollway means any of the following, declared under section 105ZB to be a local government tollway—

- (a) a local government franchised road or part of a local government franchised road;
- (b) local government tollway corridor land or part of local government tollway corridor land.

local government tollway corridor land—

- (a) for division 4—see section 105L; or
- (b) otherwise—means land declared under section 105H to be local government tollway corridor land.

local government tollway franchise agreement see section 105Y.

local government tollway infrastructure means transport infrastructure relating to local government tollways.

local government tollway infrastructure works means works done for—

- (a) constructing local government tollway infrastructure or things associated with local government tollway infrastructure; or
- (b) maintaining local government tollway infrastructure or things associated with local government tollway infrastructure; or
- (c) facilitating the operation of local government tollway infrastructure or things associated with local government tollway infrastructure.

local government tollway operator, for a local government tollway, means—

- (a) if the local government tollway is the subject of a local government tollway franchise agreement—the person

stated in the agreement as the person who is to operate the local government tollway; or

- (b) otherwise—the relevant local government.

prescribed time, for a notice given to a person under division 6, subdivision 3, means 30 days, or the greater number of days stated in the notice, after the notice is given.

tollway project means a project for the development and construction of a tollway, including local government tollway infrastructure.

user administration charge, for a toll, means the user administration charge set, under a notice under section 105ZB(4), for persons making payment of the toll other than in cash or by use of the E toll system.

‘Division 2 Approval of tollway project

‘105C Approval of tollway project

- ‘(1) A local government may, by written notice given to the Minister, ask the Minister for approval for a tollway project.
- ‘(2) The Minister may, by written notice given to the local government, approve the tollway project to be an approved tollway project.
- ‘(3) Without limiting the matters to which the Minister may have regard in deciding whether to approve a tollway project, the Minister may have regard to the following matters—
- (a) whether the tollway project is viable or likely to be viable, including, for example, whether the tollway under the tollway project will be economically, financially and technically viable;
- (b) whether the funding of the tollway project is viable or likely to be viable, including, for example, whether funding of the tollway project provides the local government with the best value for money outcome;
- (c) whether the tollway project—
- (i) meets an identified community need; and

- (ii) fits with transport plans prepared by the State; and
 - (iii) is considered to be a priority by the State;
 - (d) whether the tollway project has an impact on other transport infrastructure policies, priorities and services;
 - (e) whether there is an alternative road for which a toll is not charged and that offers an acceptable level of service;
 - (f) the proposed methodology or strategy for charging tolls for use of the tollway.
- ‘(4) The approval of a tollway project may be subject to conditions, included in the notice under subsection 2, about matters the Minister considers necessary or desirable in the circumstances, including, for example, a matter mentioned in subsection (3).
- ‘(5) This section is in addition to and not in substitution for—
- (a) the *State Development and Public Works Organisation Act 1971*; or
 - (b) the *Statutory Bodies Financial Arrangements Act 1982*.

‘105D Local government to keep Minister informed

- ‘(1) A local government that is undertaking an approved tollway project must, by written notice given to the Minister, inform the Minister about any material change to the approved tollway project as soon as practicable after the local government becomes aware of the material change.
- ‘(2) Without limiting subsection (1), a material change to an approved tollway project includes a change that may—
- (a) adversely affect the local government’s financial position in a material way; or
 - (b) adversely affect the State’s financial position in a material way; or
 - (c) adversely impact on the operation or management of a State-controlled road, a franchised road or public transport in a material way; or

- (d) affect the proposed methodology or strategy for charging tolls for use of the tollway; or
- (e) change the performance specifications for the approved tollway project, including, for example, the project alignment or design or the land required for the approved tollway project.

‘105E Minister may amend approval

- ‘(1) This section applies if the Minister is reasonably satisfied there is a material change to an approved tollway project.
- ‘(2) The Minister may, at any time during the currency of the approval for the approved tollway project, amend the approval by written notice given to the local government.
- ‘(3) The Minister may amend the approval by—
 - (a) imposing a condition on the approval; or
 - (b) amending a condition on the approval; or
 - (c) removing a condition on the approval.
- ‘(4) For subsection (2), the Minister may amend the approval—
 - (a) because of a notice given under section 105D of a material change; or
 - (b) on the Minister’s own initiative.
- ‘(5) An amendment of an approval takes effect on the day the notice of the amendment is given to the local government or the later day stated in the notice.

‘105F When approval has effect

‘An approval under section 105C(2)—

- (a) starts on the day the Minister gives the local government written notice under that subsection about the approval; and
- (b) ends on the earlier of the following days—
 - (i) the day the Minister declares, under section 105ZB, the land the subject of the approved tollway project to be a local government tollway;

- (ii) the day the Minister revokes the approval.

Note—

For the way in which the power to revoke an approval is exercisable, see the *Acts Interpretation Act 1954*, section 24AA.

‘105G State not liable for loss relating to approved tollway project

‘The State is not liable for any loss suffered by the local government or another person arising out of the approval of a tollway project, including any conditions to which the approval is subject, or an amendment or revocation of the approval.

‘Division 3 Local government tollway corridor land

‘105H Declaration of land as local government tollway corridor land

- ‘(1) A local government that has an approved tollway project may ask the Minister to declare any of the following land to be local government tollway corridor land—
- (a) land acquired by the local government for the approved tollway project, including under the *Transport Planning and Coordination Act 1994*, section 28D;
 - (b) land that is a road under the *Land Act 1994*, other than a State-controlled road;
 - (c) land, not mentioned in paragraph (a) or (b), held by the local government;
 - (d) land, not mentioned in paragraph (b), held by the State.
- ‘(2) If asked to declare land mentioned in subsection (1)(a) to be local government tollway corridor land, the Minister must, by gazette notice, declare the land to be local government tollway corridor land.
- ‘(3) If asked to declare land mentioned in subsection (1)(b), (c) or (d) to be local government tollway corridor land, the Minister

may, by gazette notice, declare the land to be local government tollway corridor land.

- ‘(4) However, the Minister must make a declaration under subsection (2), or may make a declaration under subsection (3), only if the Minister is satisfied the local government has complied with—
- (a) all conditions to which, under division 2, the approved tollway project is subject; and
 - (b) all other requirements relevant to the approved tollway project under this Act and other Acts.
- ‘(5) The land must be—
- (a) identified specifically in the gazette notice; or
 - (b) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available to be read at the local government’s public office.
- ‘(6) The declaration of land as local government tollway corridor land may be subject to conditions, included in the declaration under subsection (2) or (3), the Minister considers necessary or desirable in the circumstances.

‘105I Local government tollway corridor land on rail corridor land

- ‘(1) This section applies if, under section 105H, the Minister intends to declare a road, or part of a road, that crosses rail corridor land and continues on the other side of the rail corridor land to be local government tollway corridor land.
- ‘(2) Before making the declaration, the Minister must—
- (a) consult with the railway manager, if any, for the rail corridor land; and
 - (b) give the railway manager a reasonable opportunity to make submissions to the Minister about the intended declaration.
- ‘(3) If the Minister decides to declare the road, or part of the road, to be local government tollway corridor land, the declaration under section 105H(2) or (3) must also declare the part of the

rail corridor land where it is crossed by the road to be a common area (*common area*) for the rail corridor land and the local government tollway corridor land.

‘(4) The declaration of a common area may be subject to conditions, included in the declaration under section 105H(2) or (3), the Minister considers necessary or desirable.

‘(5) When the common area is declared—

(a) the local government for whom the declaration of the local government tollway corridor land is made may construct, maintain and operate a local government tollway on the common area in a way not inconsistent with its use as rail corridor land; and

Examples for paragraph (a)—

- a bridge or other structure over a railway
- a bridge or other structure that allows the tollway to pass under the railway

(b) the railway manager, if any, for the rail corridor land may construct, maintain and operate a railway on the common area in a way not inconsistent with its use as a local government tollway; and

(c) the railway manager and its agents or employees do not have any liability for the local government tollway or its use or operation on the common area.

‘(6) Unless the local government and the railway manager, if any, for the rail corridor land otherwise agree—

(a) subject to section 251,² the local government is responsible for maintaining a local government tollway on the common area; and

(b) if the local government tollway on the common area stops being used, the local government is responsible for the cost of removing local government tollway infrastructure from the common area and restoring the railway.

‘(7) The State is taken not to be in breach of any of its obligations in a sublease of the rail corridor land, whether entered into

2 Section 251 (Maintaining roads crossing railways)

before or after the commencement of this section, between the State and the railway manager by—

- (a) the Minister's declaration; or
- (b) anything done by the local government for the common area.

'(8) If a declaration under section 105H(2) or (3) includes a common area—

- (a) the chief executive must, as soon as practicable, give a copy of the gazette notice of the declaration to the registrar of titles; and
- (b) the registrar of titles must record the declaration on the relevant lease of the rail corridor land to the State and any affected sublease in the leasehold land register; and
- (c) any existing common area on the part of the rail corridor land where it is crossed by the road is, on the publication of the declaration, extinguished.

'105J Effect on land of local government tollway corridor land declaration

'(1) If a road, or part of a road, under the *Land Act 1994* is declared under section 105H to be local government tollway corridor land, the road or part—

- (a) stops being a road under that Act; and
- (b) becomes unallocated State land.

'(2) If a lot, or part of a lot, under the *Land Title Act 1994* is declared under section 105H to be local government tollway corridor land, the lot or part becomes unallocated State land.

'(3) If land, other than land mentioned in subsection (1) or (2) or unallocated State land, is declared under section 105H to be local government tollway corridor land, the land becomes unallocated State land.

'(4) The Governor in Council must lease local government tollway corridor land to the State under the *Land Act 1994*, section 17.

'(5) The lease is in perpetuity and, if demanded, for a rent of \$1 a year.

- ‘(6) The State must lease local government tollway corridor land to the local government that asked, under section 105H, for the land to be declared to be local government tollway corridor land.
- ‘(7) The lease under subsection (6) may include an option to renew the lease.
- ‘(8) The terms of the lease under subsection (6), including an option to renew the lease, and a renewed lease are to be decided by the Minister.
- ‘(9) The local government may lease the local government tollway corridor land to another person for use as a tollway.
- ‘(10) A person to whom the local government has leased the local government tollway corridor land, or a person who holds a lease under the lease from the local government, may lease the local government tollway corridor land to another person.
- ‘(11) Each lease under subsection (9) or (10) may include an option to renew the lease.
- ‘(12) The terms of each lease under subsection (9) or (10), including an option to renew the lease, and a renewed lease are to be decided by the lessor and lessee but must be consistent with any conditions imposed on the approved tollway project under an Act.

‘105K Relationship with other Acts

‘The following provisions do not apply to any lease or sublease, under section 105J, of local government tollway corridor land—

- (a) the *Land Act 1994*, sections 157, 183, 204, 211 and 336(2)(a) and (c);
- (b) the *Local Government Act 1993*, sections 491 and 492;
- (c) the *City of Brisbane Act 1924*, section 46H.

‘Division 4 Public utility plant**‘Subdivision 1 Preliminary****‘105L Definition for div 4**

‘In this division—

local government tollway corridor land means local government tollway corridor land that, immediately before it was declared under this chapter to be local government tollway corridor land, was a road or part of a road.

‘Subdivision 2 Ownership of public utility plant**‘105M Retention of ownership of public utility plant**

- ‘(1) This section applies if, immediately before the declaration of land as local government tollway corridor land, public utility plant was located on the land.
- ‘(2) The declaration does not affect the ownership of the public utility plant.

‘Subdivision 3 Powers of public utility provider on local government tollway corridor land**‘105N Public utility plant on local government tollway corridor land**

- ‘(1) A public utility provider may do the following things on local government tollway corridor land—
 - (a) build, replace or take away, or alter, other than for maintenance or repair, its public utility plant;
 - (b) maintain or repair, or alter, for maintenance or repair, its public utility plant;

- (c) take reasonable steps to stop obstruction or potential obstruction to, or interference or potential interference with, its public utility plant.
- ‘(2) However, the public utility provider may do things mentioned in subsection (1) only with the written agreement of the local government for whom the declaration of the local government tollway corridor land was made.
- ‘(3) The local government must not unreasonably withhold agreement.
- ‘(4) However, the local government may impose conditions on the agreement—
 - (a) to ensure the safety of persons doing things mentioned in subsection (1); or
 - (b) to require persons doing things mentioned in subsection (1) to undergo training.
- ‘(5) Despite subsection (2), a public utility provider may, if acting in the interests of public safety, carry out urgent maintenance of its public utility plant on local government tollway corridor land without the written agreement of the local government.
- ‘(6) However, the public utility provider may carry out urgent maintenance under subsection (5) only if the public utility provider—
 - (a) makes all reasonable attempts to obtain the oral agreement of the chief executive officer of the local government to the carrying out of the maintenance; and
 - (b) whether or not the chief executive officer’s oral agreement is obtained, acts as quickly as possible to advise the local government of the details of the maintenance being carried out.
- ‘(7) Building or altering public utility plant under subsection (1)(a) does not affect the ownership of the public utility plant.

‘Subdivision 4 Obligations of public utility provider

‘105O Local government must give public utility provider information

- ‘(1) This section applies if a public utility provider asks, in writing, the local government for information about lines and levels for planned local government tollway infrastructure on local government tollway corridor land.
- ‘(2) The local government must give the public utility provider the information about the lines and levels necessary to enable the public utility provider to minimise possible adverse effects of the establishment of the infrastructure on the public utility provider’s works.

‘105P Public utility provider to consult with local government before replacing public utility plant

- ‘(1) This section applies if a public utility provider proposes to replace the whole or a substantial proportion of its public utility plant on local government tollway corridor land.
- ‘(2) The public utility provider must, before seeking written agreement under section 105N, consult with the local government.
- ‘(3) The object of the consultation is to identify mutually beneficial arrangements for the replacement of the public utility plant, having regard to existing development plans for the local government tollway corridor land.

‘105Q Public utility provider to comply with local government’s or chief executive officer’s agreement

- ‘(1) This section applies if, in relation to local government tollway corridor land, a public utility provider does something mentioned in section 105N(1) (the *relevant action*)—
 - (a) without the written agreement of the local government, or the oral agreement of the local government’s chief executive officer, required under section 105N; or

- (b) in a way inconsistent with an agreement with the local government or chief executive officer.
- ‘(2) The local government may, by written notice given to the public utility provider, require the public utility provider, at the public utility provider’s cost, and within the time stated in the notice, to take action to remedy the relevant action.
- ‘(3) The time stated in the notice must be a time that is reasonable in the circumstances.
- ‘(4) If the public utility provider does not comply with the notice, the local government may arrange for action the local government considers necessary to remedy the relevant action.
- ‘(5) The local government’s reasonable expenses in arranging for the action to be carried out is a debt payable by the public utility provider to the local government.

‘105R Local government may require public utility provider to change position of public utility plant

- ‘(1) A local government may require a public utility provider to change the position of the public utility provider’s public utility plant on local government tollway corridor land if the local government considers that the public utility plant will interfere with the exercise of the local government’s powers for the local government tollway corridor land.
- ‘(2) The local government is responsible only for the cost of changing the position of the public utility plant.

‘105S Information by public utility provider to local government

- ‘(1) If, in relation to public utility plant on local government tollway corridor land, a public utility provider does something mentioned in section 105N(1), the public utility provider must prepare records adequately defining the location of the public utility plant.
- ‘(2) A public utility provider owning public utility plant located on local government tollway corridor land must, if asked by the

local government, give the local government information adequately defining the location of the public utility plant.

Maximum penalty for subsection (2)—40 penalty units.

‘Subdivision 5 Liability for matters relating to public utility plant

‘105T Liability for damage caused by failure to comply with request for information

- ‘(1) This section applies if—
- (a) a local government causes damage to public utility plant located on local government tollway corridor land; and
 - (b) before the damage was caused, the local government had asked for information as mentioned in section 105S(2) from the public utility provider owning the public utility plant; and
 - (c) the public utility provider had not, within a reasonable time, complied with the request; and
 - (d) the damage was caused because of the failure to comply with the request.
- ‘(2) Unless the local government otherwise agrees, the local government is not liable for the damage.

‘105U Liability for damage caused by failure to give enough detail about location of public utility plant

- ‘(1) This section applies if—
- (a) a local government causes damage to public utility plant located on local government tollway corridor land; and
 - (b) information given to the local government under section 105S(2) did not define in enough detail the location of the public utility plant; and
 - (c) the damage was caused because of the failure to define in enough detail the location of the public utility plant.

- ‘(2) Unless the local government otherwise agrees, the local government is not liable for the damage.

‘105V Liability for damage caused because of failure to comply with local government’s requirements

- ‘(1) This section applies if—
- (a) a local government causes damage to public utility plant located on local government tollway corridor land; and
 - (b) the damage is caused because the public utility provider owning the public utility plant did something mentioned in section 105N(1) in relation to the public utility plant other than under the local government’s requirements under this division.
- ‘(2) Unless the local government otherwise agrees, the local government is not liable for the damage.

‘105W Liability of public utility provider to pay additional expenses incurred by local government

- ‘(1) This section applies if a local government incurs additional expense in carrying out local government tollway infrastructure works on local government tollway corridor land because a public utility provider—
- (a) did not give within a reasonable time information asked for by the local government as mentioned in section 105S(2); or
 - (b) in giving information as mentioned in section 105S(2) to the local government, did not define in enough detail the location of public utility plant; or
 - (c) did something mentioned in section 105N(1) in relation to public utility plant other than under the local government’s requirements under this division.
- ‘(2) Unless the local government otherwise agrees, the public utility provider is liable to pay the local government the additional expense.

‘Subdivision 6 Replacement or reconstruction of public utility plant

‘105X Replacement or reconstruction of public utility plant

- ‘(1) This section applies if the carrying out of local government tollway infrastructure works on local government tollway corridor land by or for the local government requires taking away or replacing public utility plant.
- ‘(2) The local government can not be compelled to replace or reconstruct the public utility plant in its previous location and form.
- ‘(3) If the public utility plant is replaced or reconstructed—
 - (a) it must be done under the local government’s requirements; and
 - (b) it must be done at the local government’s expense.
- ‘(4) However, the cost to the local government of replacement or reconstruction of the public utility plant may be reduced by agreement between the local government and the public utility provider owning the public utility plant after taking into account—
 - (a) the remaining life of the public utility plant; and
 - (b) the salvage or scrap value of the public utility plant; and
 - (c) additional expense incurred because of inaccurate information given by the public utility provider about the location of the public utility plant; and
 - (d) additional expense incurred because the public utility plant was not constructed in accordance with the local government’s requirements.

‘Division 5 Franchising local government tollway corridor land

‘105Y Power to enter into tollway franchise agreements

- ‘(1) A local government may, with the Treasurer’s approval under the *Statutory Bodies Financial Arrangements Act 1982*, section 60A, enter into an agreement (a ***local government tollway franchise agreement***) with a person under which, or as part of which, the person is to invest in the construction, maintenance or operation of—
- (a) a tollway under an approved tollway project; or
 - (b) a local government tollway.
- ‘(2) The agreement must be consistent with—
- (a) for a tollway under an approved tollway project—conditions to which, under division 2, the approved tollway project is subject; and
 - (b) for a local government tollway—conditions to which, under section 105ZB, the local government tollway is subject; and
 - (c) all other requirements relevant to the approved tollway project under this Act and other Acts.
- ‘(3) Also, to the extent practicable, the agreement must be consistent with—
- (a) the coordination plan; and
 - (b) the objectives of this Act; and
 - (c) the SEQ regional plan under the *Integrated Planning Act 1997*; and
 - (d) the objectives of the State’s current transport infrastructure strategies.
- ‘(4) The agreement may include, for example, the following—
- (a) provisions about the ownership of the local government tollway infrastructure;
 - (b) provisions about tolls for the use of the local government tollway;

- (c) provisions about administration charges in relation to tolls for the use of the local government tollway.

‘105Z Tabling of local government tollway franchise agreements

- ‘(1) The mayor of a local government that enters into a local government tollway franchise agreement or an amendment of a local government tollway franchise agreement must, as soon as practicable after the agreement or amendment is entered into, table the agreement or amendment at a meeting of the local government.
- ‘(2) The local government must—
 - (a) keep the local government tollway franchise agreement or the amendment of a local government tollway franchise agreement open for inspection, free of charge, by members of the public at its public office; and
 - (b) make copies available for purchase at a price not more than the cost to the local government of producing the copy and, if a copy is supplied to a purchaser by post, the cost of the postage.

‘105ZA Annual report on operation of part

‘If a local government has entered into a local government tollway franchise agreement, each annual report of the local government must include a report on the operation of this part during the financial year to which the report relates.

‘Division 6 Local government tollways

‘Subdivision 1 Declaration of local government tollways

‘105ZB Declaration

- ‘(1) The Minister may, by gazette notice, declare that any of the following is a local government tollway—

- (a) a local government franchised road or part of a local government franchised road;
 - (b) local government tollway corridor land or part of local government tollway corridor land.
- ‘(2) Without limiting the matters to which the Minister may have regard in deciding whether to make a declaration under subsection (1), the Minister may have regard to the following matters—
- (a) whether there have been any material changes to the approved tollway project;
 - (b) whether the local government has complied with conditions to which, under division 2, the approved tollway project is subject;
 - (c) whether the local government has complied with all other requirements relevant to the approved tollway project under this Act and other Acts.
- ‘(3) A declaration under subsection (1) may be subject to conditions about a matter mentioned in schedule 5 that the Minister considers necessary in the circumstances.
- ‘(4) If the Minister makes a declaration under subsection (1), the local government must give notice of the matters mentioned in schedule 5 for the tollway before a toll becomes payable for the use of the tollway.
- ‘(5) Notice under subsection (4) must be given by a notice published in a newspaper circulating generally in the local government’s area.
- ‘(6) A toll may be set in a way that applies differently—
- (a) to different classes of vehicles; or
 - (b) by reference to stated exceptions or factors.
- ‘(7) Subsection (6) does not limit schedule 5 or the *Statutory Instruments Act 1992*.
- ‘(8) An administration charge, under a notice under subsection (4), for a toll must not be more than the reasonable cost, under this division, of issuing a notice for, and collecting, the unpaid toll and administration charge for the toll.

- ‘(9) A user administration charge, under a notice under subsection (4), for a toll must not be more than the reasonable cost, under this division, of administering and collecting payment of the toll.

‘Subdivision 2 Liability for tolls

‘105ZCLiability for toll and user administration charge and satisfying the liability

- ‘(1) The driver of a designated vehicle entering, or on, a local government tollway is liable, at each toll plaza through which the vehicle passes, for—
- (a) the toll payable at the toll plaza for the use of the local government tollway by the vehicle; and
 - (b) if the driver satisfies the driver’s liability under paragraph (a) other than in cash or by use of the E toll system—the user administration charge for the toll.
- ‘(2) The amount of any unpaid toll or user administration charge may be recovered by the local government tollway operator as a debt from the driver, subject to any applicable agreement made by the local government tollway operator.
- ‘(3) However, the driver is not liable to pay the amount of the user administration charge for the toll if the toll is unpaid because—
- (a) the driver’s transponder or other electronic device is faulty through no fault of the driver and the driver is unaware it is faulty; or
 - (b) the E toll system is faulty or otherwise inoperable.
- ‘(4) The driver may satisfy the driver’s liability for the toll payable at a toll plaza by—
- (a) if a part of the toll plaza is designated by appropriate signs as available for making a toll payment in cash—making a payment in cash of the toll payable; or
 - (b) if there is an E toll only pay point at the toll plaza, or another part of the toll plaza designated by appropriate

- signs as available for using an E toll system—using the E toll system as required under section 105ZD(1); or
- (c) if a notice under section 105ZB(4) provides another way of making the payment—making the payment in that way.
- ‘(5) If the designated vehicle is at an E toll only pay point at the toll plaza, the driver may satisfy the driver’s liability for the toll only by—
- (a) using the E toll system as required under section 105ZD(1); or
- (b) another way provided in a notice under section 105ZB(4).

‘105ZD Using the E toll system

- ‘(1) The following requirements apply for using the E toll system to satisfy the driver’s liability for the toll payable at the toll plaza—
- (a) the designated vehicle must have a properly operating transponder or other electronic device;
- (b) the transponder or other device—
- (i) must have been issued for a vehicle of the same type as the designated vehicle; and
- (ii) must be linked to a valid account for the E toll system operating for the local government tollway; and
- (iii) must properly activate the E toll system.
- ‘(2) Using the E toll system to satisfy the liability of a designated vehicle’s driver for the toll payable at a toll plaza does not affect another contractual obligation owed by the driver or another person to a local government tollway operator under an applicable agreement made by the local government tollway operator.

Example for subsection (2)—

The arrangements for a person’s account with a local government tollway operator may provide that the person will be billed at the end of

each month for all the times the transponder issued to the person has been used at toll plazas on the local government tollway in the month.

‘Subdivision 3 Failure to pay toll

‘105ZE Application of sdiv 3

‘This subdivision applies if—

- (a) a designated vehicle passes through a toll plaza on a local government tollway; and
- (b) the driver does not, under section 105ZC(4), satisfy the driver’s liability for the toll payable at the toll plaza.

‘105ZF Definition for sdiv 3

‘In this subdivision—

deferred toll amount means the total of the following amounts for any local government tollway—

- (a) the amount of the toll for which the driver’s liability was not satisfied under section 105ZC(4);
- (b) the amount of the administration charge for the toll;
- (c) the amount of the user administration charge for the toll.

‘105ZGLiability for administration charge in addition to unpaid toll and user administration charge

- ‘(1) If this subdivision applies to a driver, the driver immediately becomes liable to pay the local government tollway operator, in addition to the unpaid toll and the user administration charge for the toll, the amount of the administration charge for the toll.
- ‘(2) However, the driver is not liable under subsection (1) to pay the amount of the administration charge for the toll if the toll is unpaid because—

- (a) the driver's transponder or other electronic device is faulty through no fault of the driver and the driver is unaware it is faulty; or
- (b) the E toll system is faulty or otherwise inoperable.

'105ZH Notice to vehicle's registered operator

- '(1) The local government tollway operator may give a notice under this section only if the local government tollway operator has not received the deferred toll amount.
- '(2) The local government tollway operator may give the registered operator of the vehicle a written notice requiring the registered operator, within the prescribed time for the notice—
 - (a) to pay the local government tollway operator the deferred toll amount; or
 - (b) to give the local government tollway operator the registered operator's statutory declaration containing information that—
 - (i) if the registered operator is an individual—establishes, to the extent it is reasonably practicable for the registered operator to do so, that the registered operator was not the driver; and
 - (ii) gives the local government tollway operator all the help the registered operator can reasonably give for establishing the driver's name and address.
- '(3) The registered operator must comply with the notice given under subsection (2) unless the registered operator has a reasonable excuse.

Maximum penalty—15 penalty units.

- '(4) For giving the notice under subsection (2), the registered operator's address for service may be taken to be the address recorded for the registered operator under the registration Act applying to the designated vehicle's registration.

‘105ZI Corporation may be taken to be driver of vehicle

- ‘(1) This section applies if the registered operator of the vehicle—
- (a) is a corporation; and
 - (b) fails to give the local government tollway operator all the help, under section 105ZH(2)(b)(ii), the registered operator can reasonably give to enable the local government tollway operator to establish the name and address of the driver of the vehicle.
- ‘(2) The registered operator of the vehicle is taken to be the driver of the vehicle for sections 105ZC and 105ZG.

‘105ZJ Notice to information holder

- ‘(1) The local government tollway operator may give a notice under this section only if the local government tollway operator—
- (a) has not received the deferred toll amount; and
 - (b) considers, on reasonable grounds, that a person (the *information holder*) other than the vehicle’s registered operator has information that could help the local government tollway operator establish the name and address of the driver.
- ‘(2) The local government tollway operator may give the information holder a written notice requiring the information holder, within the prescribed time for the notice, to give the local government tollway operator a statutory declaration complying with subsection (3).
- ‘(3) The statutory declaration must—
- (a) be made by the information holder; and
 - (b) contain information giving the local government tollway operator all the help the information holder can reasonably give for establishing the driver’s name and address.

- ‘(4) The information holder must comply with the notice given under subsection (2) unless the information holder has a reasonable excuse.

Maximum penalty for subsection (4)—15 penalty units.

‘105ZK Notice to person identified as driver

- ‘(1) The local government tollway operator may give a notice under this section only if the local government tollway operator—
- (a) has not received the deferred toll amount; and
 - (b) considers, on reasonable grounds, that the local government tollway operator has correctly identified the person (the *identified person*) who was the driver.
- ‘(2) The local government tollway operator may give the identified person a written notice requiring the identified person, within the prescribed time for the notice—
- (a) to pay the local government tollway operator the deferred toll amount; or
 - (b) to give the local government tollway operator the identified person’s statutory declaration containing information that—
 - (i) establishes, to the extent it is reasonably practicable for the identified person to do so, that the identified person was not the driver; and
 - (ii) gives the local government tollway operator all the help the identified person can reasonably give for establishing the driver’s name and address.
- ‘(3) The identified person must comply with the notice given under subsection (2) unless the identified person has a reasonable excuse.

Maximum penalty for subsection (3)—15 penalty units.

- (ii) by the individual whose identity is apparent, or can reasonably be ascertained, from the personal information; or
 - (c) for a proceeding in a court or tribunal, if the personal information is admissible as evidence in the proceeding; or
 - (d) if the purpose for which the action is taken is directly related to the purpose for which the personal information was obtained; or
 - (e) if the person believes on reasonable grounds that the action is necessary to prevent or lessen a serious and imminent threat to the life or health of an individual.
- ‘(3) In this section—
- administration of this division*** includes the operation of a local government tollway under this division.
- personal information*** means information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, that—
- (a) has been gained or otherwise brought into existence—
 - (i) through involvement in the administration of this division; or
 - (ii) because of an opportunity provided by involvement in the administration of this division; and
 - (b) is about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

‘Subdivision 6 Evidentiary matters

‘105ZO Evidence and procedure

- ‘(1) For this division—
- (a) it is not necessary to prove the appointment of an official of a local government or a local government tollway operator; and

- (b) a signature purporting to be the signature of an official of a local government or a local government tollway operator is evidence of the signature it purports to be; and
 - (c) a certificate stating any of the following matters is evidence of the matter—
 - (i) a stated place was or was not a local government tollway or part of a local government tollway;
 - (ii) a stated place was or was not a toll plaza or part of a toll plaza for a local government tollway;
 - (iii) a stated person was or was not recorded as the registered operator of a stated vehicle;
 - (iv) a stated vehicle was or was not a designated vehicle of a stated type;
 - (v) the toll payable for a designated vehicle's use of a local government tollway has not been paid;
 - (vi) the administration charge for a toll has not been paid;
 - (vii) the user administration charge for a toll has not been paid;
 - (viii) a statutory declaration required for subdivision 3 was or was not received;
 - (ix) a recording is a recording of a type mentioned in subsection (3).
- '(2) A certificate—
- (a) may relate to a stated time or period of time; and
 - (b) if it is issued for a particular period, has the effect mentioned in subsection (1)(c) for the entire period.
- '(3) A recording by a photographic, mechanical, electronic or other device for the purpose of administering this division, including for the operation of a local government tollway under this division, is evidence of—
- (a) the making of the recording; and
 - (b) the accuracy of the recording; and

(c) the matters stated in the recording.

‘(4) In this section—

certificate means a certificate purporting to be signed by an official.

official, of a local government or a local government tollway operator, means—

- (a) the chief executive officer of the local government, or an officer or employee of the local government acting under the authority of the chief executive officer; or
- (b) the chief executive officer, however named, of a local government tollway operator, or an employee of the local government tollway operator acting under the authority of the chief executive officer.’

33 Amendment of s 243 (Status of railway land)

Section 243(2)—

insert—

‘*railway manager*, for corridor land, means the person who is accredited under part 3 as the railway manager for the railway or proposed railway on, or proposed to be on, the corridor land.’

34 Amendment of s 249 (Railways on State-controlled roads)

(1) Section 249, heading, ‘State-controlled roads’—

omit, insert—

‘**particular roads**’.

(2) Section 249(1)(b)(i) and (ii), (2) and (3)(a) and (b), ‘State-controlled road’—

omit, insert—

‘relevant road’.

(3) Section 249(3)(b) and (c), ‘chief executive for chapter 6’—

omit, insert—

‘relevant person for the relevant road’.

- (4) Section 249(3)(c), ‘chief executive’s’—
omit, insert—
 ‘relevant person’s’.
- (5) Section 249(5), ‘chief executive’—
omit, insert—
 ‘relevant person’.
- (6) Section 249(6)—
insert—
 ‘**relevant person** means—
- (a) for a State-controlled road or State toll road corridor land—the chief executive for chapter 6; or
 - (b) for local government tollway corridor land—the local government or a person to whom the local government tollway corridor land has been leased.
- relevant road** means—
- (a) a State-controlled road; or
 - (b) State toll road corridor land; or
 - (c) local government tollway corridor land.’.

35 Amendment of s 303 (Effect on land of busway declaration)

Section 303—

insert—

- ‘(6) The *Land Act 1994*, sections 157, 183, 204, 211 and 336(2)(a) and (c) do not apply to a lease or sublease of busway land.’.

36 Amendment of s 354 (Effect on land of light rail declaration)

Section 354—

insert—

- ‘(7) The *Land Act 1994*, sections 157, 183, 204, 211 and 336(2)(a) and (c) do not apply to a lease or sublease of light rail land.’.

37 Insertion of new ch 18, pt 7

Chapter 18—

*insert—***‘Part 7 Transitional provisions for
Transport and Other
Legislation Amendment Act
2005****‘543 Transitional provision for toll roads**

- ‘(1) This section applies if, immediately before the commencement, a State-controlled road or part of a State-controlled road, or a franchised road or part of a franchised road, was a toll road under the previous provisions.
- ‘(2) On the commencement—
- (a) the road continues to be a toll road as if it had been declared to be a toll road by gazette notice under section 93; and
 - (b) tolls payable for the use of toll roads under the previous provisions continue to be payable for the use of toll roads as if they had been provided for by gazette notice under section 93; and
 - (c) the types of vehicles liable for tolls for use of the toll road under the previous provisions continue to be liable for tolls for use of the toll road as if they had been provided for by gazette notice under section 93; and
 - (d) the toll set as payable under the previous provisions for each type of vehicle at each toll plaza on the toll road continues to be payable as if it had been provided for by gazette notice under section 93; and
 - (e) the administration charge for a toll set under the previous provisions for chapter 6, part 7 of the Act continues as the administration charge for the toll as if it had been provided for by gazette notice under section 93.

- ‘(3) The Minister may, by gazette notice, provide for a matter mentioned in schedule 5 for a toll road mentioned in subsection (1) as if the toll road were being declared under section 93.
- ‘(4) Without limiting subsection (3), a gazette notice under that subsection may provide for, or amend, a matter mentioned in subsection (2).
- ‘(5) In this section—
- commencement*** means the commencement of this section.
- previous provisions*** means the *Transport Infrastructure (State-controlled Roads) Regulation 1994*, part 4.

‘544 Transitional provision for north-south bypass tunnel project

- ‘(1) On the commencement, the north-south bypass tunnel project is taken to be an approved tollway project as if the Minister had, by written notice given to Brisbane City Council, given approval under section 105C(2).
- ‘(2) Without limiting subsection (1)—
- (a) the approval of the tollway project is taken, for section 105F, to have started on the day on which the memorandum of understanding was entered into; and
- (b) a condition to which the north-south bypass tunnel project is subject, immediately before the commencement, including, for example, under the memorandum of understanding, is taken to be a condition to which the approval is subject under section 105C(4); and
- (c) the approval of the north-south bypass tunnel project may be amended under section 105E.
- ‘(3) In this section—
- commencement*** means the commencement of this section.
- memorandum of understanding*** means the document titled ‘Memorandum of Understanding—North-South Bypass Tunnel Project’ entered into between the State of Queensland and Brisbane City Council and dated 28 February 2005.

north-south bypass tunnel project means the project described in the document titled ‘North-South Bypass Tunnel Draft Environmental Impact Statement’ prepared under the *State Development and Public Works Organisation Act 1971* by Sinclair Knight Merz Pty Ltd and Connell Wagner Pty Ltd and dated February 2005.³.

38 Amendment of sch 1 (Subject matter for regulations)

Schedule 1—

insert—

- ‘25 The exemption of vehicles from the payment of tolls on roads.’.

39 Insertion of new sch 5

After schedule 4—

insert—

‘Schedule 5 Matters for notice for toll road or local government tollway

sections 93 and 105ZB

- 1 The types of vehicles liable for tolls for use of a toll road or local government tollway.
- 2 The maximum toll payable for use of a toll road or local government tollway for each type of vehicle liable to pay a toll.
- 3 The methodology to be used to decide indexed, periodic increases in the maximum toll payable for use of a toll road or local government tollway.

3 A copy of the document may be obtained at the Brisbane City Council’s public office or at <www.nsbt-eis.com>.

- 4 The day the toll becomes payable by each type of vehicle liable to pay a toll for use of a toll road or local government tollway.
- 5 The administration charge payable for issuing a notice for, and collecting, an unpaid toll for use of a toll road or local government tollway.
- 6 The ways of making payment of the toll liability for use of a toll road or local government tollway, other than payment in cash or by use of the E toll system.
- 7 The user administration charge payable for persons making payment of the toll other than in cash or by use of the E toll system.
- 8 A description of the arrangements that will be used to allow users of a toll road or local government tollway to satisfy the liability to pay tolls on the toll road or local government tollway and tolls on other toll roads or tollways in the State or another State.’.

40 Amendment of sch 6 (Dictionary)

- (1) Schedule 6, definitions *administration charge, designated vehicle, E toll only pay point, E toll system, exempt vehicle, prescribed time, railway manager, registered operator, registration Act* and *valid account*—
omit.
- (2) Schedule 6—
insert—
‘administration charge, for a toll, means the administration charge set in relation to non-payment of the toll.
approved tollway project, for chapter 6, part 8, see section 105B.
deferred toll amount—
(a) for chapter 6, part 7, division 3—see section 97; or
(b) for chapter 6, part 8, division 6, subdivision 3—see section 105ZF.

designated vehicle—

- (a) for chapter 6, part 7—see section 92; or
- (b) for chapter 6, part 8—see section 105B.

E toll only pay point means a part of a toll plaza designated by appropriate signs for the exclusive use of vehicles using the E toll system.

E toll system—

- (a) for chapter 6, part 7—see section 92; or
- (b) for chapter 6, part 8—see section 105B.

exempt vehicle means a vehicle exempted from the payment of tolls on roads under—

- (a) an Act; or
- (b) an Act or law of the Commonwealth; or
- (c) an Act of another State that is prescribed under a regulation for this paragraph.

local government franchised road, for chapter 6, part 8, see section 105B.

local government tollway, for chapter 6, part 8, see section 105B.

local government tollway corridor land, for chapter 6, part 8, see section 105B.

local government tollway franchise agreement, for chapter 6, part 8, see section 105Y.

local government tollway infrastructure, for chapter 6, part 8, see section 105B.

local government tollway infrastructure works, for chapter 6, part 8, see section 105B.

local government tollway operator, for chapter 6, part 8, see section 105B.

prescribed time—

- (a) for chapter 6, part 7—see section 92; or
- (b) for chapter 6, part 8—see section 105B.

railway manager means—

- (a) for a railway or a proposed railway—the person who is accredited under chapter 7, part 3 as the railway manager for the railway or proposed railway; or
- (b) for rail corridor land—the person who is accredited under chapter 7, part 3 as the railway manager for the railway or proposed railway on, or proposed to be on, the rail corridor land.

registered operator, of a vehicle that has passed through a toll plaza, means a person who, when the vehicle passed through the toll plaza, was the person in whose name the vehicle was registered under a registration Act.

registration Act means—

- (a) the *Transport Operations (Road Use Management) Act 1995* or another Act, prescribed under a regulation, dealing with the registration of vehicles; or
- (b) a law of the Commonwealth or another State dealing generally with the registration of vehicles.

State toll road corridor land means land declared to be State toll road corridor land under section 84A.

toll plaza means a part of a toll road or local government tollway where facilities are constructed for either or both of the following—

- (a) the collection of tolls from the drivers of vehicles using the toll road or local government tollway;
- (b) the operation of an E toll system for vehicles using the toll road or local government tollway.

tollway project, for chapter 6, part 8, see section 105B.

user administration charge—

- (a) for chapter 6, part 7—see section 92; or
- (b) for chapter 6, part 8—see section 105B.

valid account, for an E toll system operating for a toll road or local government tollway, means an account that—

- (a) has been established by a person for using the E toll system; and

1967 if the land is, in the local government's opinion, required for an approved tollway project or for an incidental purpose.

- '(4) The power to acquire land under this section includes power to acquire land or an easement or other interest in land above or beneath the surface without acquiring rights in the surface.
- '(5) Subsection (4) applies to the acquisition of an easement even though the easement—
 - (a) is not attached to, or used and enjoyed with, a dominant tenement; or
 - (b) must not be used and enjoyed in common with any other person.
- '(6) A local government acquiring land under this section is a constructing authority within the meaning of the *Acquisition of Land Act 1967*.
- '(7) If an acquisition of land by a local government would sever land of the owner from other land of the owner, the local government may acquire the whole or a part of the severed area by agreement or by taking the land under the *Acquisition of Land Act 1967*.
- '(8) Land acquired under this section may be described in the instrument acquiring the land in any way sufficient to identify the land.'