

TRANSPORT (BUS AND LIGHT RAIL) AMENDMENT BILL 2000

EXPLANATORY NOTES

GENERAL OUTLINE

OBJECTIVES OF THE LEGISLATION

The objective of the Transport Legislation (Busway and Light Rail) Amendment Bill 2000 is to provide for a number of amendments to the *Transport Infrastructure Act 1994*, *Transport Planning and Coordination Act 1994*, *Transport Operations (Passenger Transport) Act 1994* and the *Transport Operations (Road Use Management) Act 1995* as administered by the Department of Transport.

REASONS FOR THE BILL

To clarify under the *Transport Infrastructure Act 1994*, a number of powers to be used by the Minister or Chief Executive of the Department of Transport particularly for busway, busway transport infrastructure and light rail and light rail transport infrastructure.

To amend the *Transport Operations (Passenger Transport) Act 1994* with respect to who may be appointed by the chief executive as an authorised person for railway to include light rail.

To amend the *Transport Operations (Road Use Management) Act 1995* to provide a regulation making power about the use under the *Transport Infrastructure Act 1994* of busway and light rail land, in relation to the vehicles permitted on the land and persons having the permission of the chief executive to be on the land.

To amend the *Transport Planning and Coordination Act 1994* with respect to the powers of the Chief Executive of the Department of Transport to enable the acquisition of land for busway and light rail purposes and to lease, sell or otherwise dispose of the busway or light rail land to any person.

ESTIMATED COSTS FOR GOVERNMENT IMPLEMENTATION

No costs are estimated for governmental implementation of these amendments.

RESULTS OF CONSULTATION

The proposed amendments have been supported.

CONSISTENCY WITH FUNDAMENTAL LEGISLATIVE PRINCIPLES

The *Legislative Standards Act 1992* defines fundamental legislative principles (“FLPs”) as “principles relating to legislation that underlie a parliamentary democracy based on the rule of law”.

The amendments depart from FLPs as follows:-

1. Alteration of road levels.
2. Temporary Use and Occupation of Land.
3. Permitting construction of roads over or under busway land.
4. Permitting construction of roads over or under light rail land.
5. No entitlement to compensation for certain matters for the establishment of busway transport infrastructure on busway land.
6. No entitlement to compensation for certain matters for the establishment of light rail transport infrastructure on light rail land.
7. Applications for a busway or a light rail feasibility investigator’s authority.
8. Powers of busway or light rail feasibility investigator’s authority.

ALTERATION OF ROAD LEVELS

The *Transport Infrastructure Act 1994* is to be amended by clause 12 of the Bill to empower the chief executive to require a local government to alter the level of road.

The Fundamental Legislative Principle

The legislation is consistent with principles of natural justice. (*Section 4(3)(b) Legislative Standards Act 1992*).

The Departure

The amendment clause 12 inserts sections 180K and 180ZW which do not compensate adjacent property owners if a road level is altered.

The reason for the Departure

This practice is consistent with present policy concerning compensation payable by the Department of Transport for road level alterations. Section 918 of the *Local Government Act 1993* provides that the owner or occupier of land is entitled to reasonable compensation from a local government due to injurious affection caused by a change of the level of a road.

Under the new sections 180K and 180ZW the Department of Transport and a local government must reach an agreement about the costs incurred by a local government in altering the level of the road.

TEMPORARY USE OR OCCUPATION OF LAND

The *Transport Infrastructure Act 1994* is to be amended by clause 12 of the Bill so that to perform one of the functions of the chief executive, the chief executive, or anyone authorised in writing by the chief executive may enter or temporarily occupy or use land.

The Fundamental Legislative Principle

The legislation does not adversely affect rights and liberties, or impose obligations, retrospectively. (*Section 4(3)(g) Legislative Standards Act 1992*).

The Departure

The amendment clause 12, inserts sections 180E and 180ZO which disrupt an occupier's right to enjoy the use of the land they occupy.

The reason for the Departure

It may be necessary to enter land temporarily to perform necessary or conversant works for light rail or busways. Sections 180E and 180ZO provide for payment of compensation to the owner or occupier if they suffer loss or expense caused by this entry or occupation or use.

PERMITTING CONSTRUCTION OF ROADS OVER OR UNDER BUSWAY LAND

The *Transport Infrastructure Act 1994* is to be amended by clause 12 of the Bill to remove any duty or liability from the chief executive, an operator of bus passenger services on a busway, a road, its use or operation where the road operates over or under busway land.

The Fundamental Legislative Principle

The legislation does not confer immunity from proceeding or prosecution without adequate justification. (*Section 4(3)(h) Legislative Standards Act 1992*).

The Departure

The amendment clause 12 inserts sections 180L so that roads may be extended over or under busway land.

The reason for the Departure

The local government is being permitted to construct, maintain and operate a road. The chief executive nor a person providing bus passenger services on a busway should bear any responsibility for these matters, which are clearly outside his/her control.

PERMITTING CONSTRUCTION OF ROADS OVER OR UNDER LIGHT RAIL LAND

The *Transport Infrastructure Act 1994* is to be amended by clause 12 of the Bill to remove any duty or liability from the chief executive, a manager for a light rail or an operator of a light rail vehicle, for a road, its use or operation where the road operates over or under light rail land.

The Fundamental Legislative Principle

The legislation does not confer immunity from proceeding or prosecution without adequate justification. (*Section 4(3)(h) Legislative Standards Act 1992*).

The Departure

The amendment clause 12 inserts sections 180ZX so that roads may be extended over or under light rail land.

The reason for the Departure

The local government is being permitted to construct, maintain and operate a road. The chief executive, a light rail manager or a person operating a light rail vehicle on a light rail should not bear any responsibility for these matters, which are clearly outside their control.

NO ENTITLEMENT TO COMPENSATION FOR THE ESTABLISHMENT OF BUSWAY

The *Transport Infrastructure Act 1994* is to be amended by clause 12 of the Bill to remove from a person any entitlement at law to compensation for certain matters caused by the establishment of busway on busway land. These matters are:

- any adverse effect on the amenity of the neighbourhood of a person with an interest in land proximate to busway land;
- interference with any activity of a business, commercial, industrial or residential nature of a person with an interest in land proximate to busway land;
- loss or damage arising directly or indirectly from interference with access for a person with an interest in land proximate to busway land;
- loss or damage caused by the reduction or loss of any right of access to the road network of a person with an interest in land, proximate to busway land.

The Fundamental Legislative Principle

This section affects the common law rights of a person by removing their right to make claims for any of the matters above in relation to the establishment and operation of busway.

The legislation does not adversely affect rights and liberties, or impose obligations, retrospectively (section 4(3)(g) *Legislative Standards Act 1992*).

The Departure

The amendment clause inserts section 180ZG which removes any entitlement at law to compensation for the establishment and operation of busway transport infrastructure on busway land. "Establishment" is defined to include the initial construction of busway transport infrastructure on busway land, construction for changing or adding to the busway transport infrastructure previously constructed on the busway land and traffic management on busway land.

However, sections 180ZH and 180ZZT of Clause 12 permit the payment of compensation where the establishment of busway transport infrastructure on busway land is a cause of interference with practicable access. Entitlement to compensation for access interference does not include access interference in relation to a right of access under the common law, for which there is no entitlement to compensation under Section 180ZG.

The Reason for the Departure

There should be an ability when undertaking project management to forecast the projected costs of the implementation of any major transport infrastructure. This is to ensure that there is accountability for the substantial amounts of money required from the State and where necessary the private sector. In order to operate within a defined budget it is necessary to limit the liability of the State in particular circumstances.

The matters for which there will be no compensation for the establishment of busway transport infrastructure on busway land arise from activities in relation to the actual implementation of the transport infrastructure and any consequent effect these activities have on the amenity of the surrounding areas and interference with day to day activities.

NO ENTITLEMENT TO COMPENSATION FOR THE ESTABLISHMENT OF LIGHT RAIL

The *Transport Infrastructure Act 1994* is to be amended by clause 12 of the Bill to remove from a person any entitlement at law to compensation for certain matters caused by the establishment of light rail on light rail land. These matters are:

- any adverse effect on the amenity of the neighbourhood of a person with an interest in land proximate to light rail land;

- interference with any activity of a business, commercial, industrial or residential nature of a person with an interest in land proximate to light rail land;
- loss or damage arising directly or indirectly from interference with access for a person with an interest in land proximate to light rail land;
- loss or damage caused by the reduction or loss of any right of access to the road network of a person with an interest in land, proximate to light rail land.

The Fundamental Legislative Principle

This section affects the common law rights of a person by removing their right to make claims for any of the matters mentioned above in relation to the establishment and operation of light rail.

The legislation does not adversely affect rights and liberties, or impose obligations, retrospectively (section 4(3)(g) *Legislative Standards Act 1992*).

The Departure

The amendment clause 12 inserts section 180ZZS which removes any entitlement at law to compensation for the establishment of light rail transport infrastructure on light rail land. However, sections 180ZZT and 180ZZU of Clause 12 permit the payment of compensation where the establishment of light rail transport infrastructure on light rail land is a cause of interference with practicable access. Entitlement to compensation does not include access interference in relation to a right of access under the common law, for which there is no entitlement to compensation under Section 180ZG.

The Reason for the Departure

The reason for the departure from the fundamental legislative principle for no entitlement for compensation for certain matters due to the establishment of light rail is the same reason as stated above in relation to no entitlement for compensation for certain matters due to the establishment of busway.

INVESTIGATING POTENTIAL BUSWAY OR LIGHT RAIL

The *Transport Infrastructure Act 1994* is to be amended by clause 12 of the Bill to allow persons to apply for authorisation from the chief executive to enter land to investigate the land's potential and suitability for the development of busway or light rail transport infrastructure before powers under chapter 7A or 7B are exercised.

The Fundamental Legislative Principle

Section 4(3)(a) of the *Legislative Standards Act 1992* provides that legislation should not be inconsistent with the principle of making rights and liberties, or obligations dependent on administrative power only if the power is sufficiently defined and subject to appropriate review.

The Departure

The amendment clause 12 inserts Section 180ZZZS which allows the chief executive to authorise persons to enter land to investigate the land's potential and suitability for the development of busway or light rail transport infrastructure.

The decision of the chief executive to grant or refuse to grant an applicant with a feasibility investigator's authority is not subject to review on the basis of the merits of the decision.

However, this is consistent with the form of similar provisions found in other laws (*State Development and Public Works Organisation Act 1971* and the *Transport Infrastructure Act 1994*, chapter 6 for heavy rail) in relation to infrastructure development. This Bill provides the same safeguards for the landholder in that there is a requirement to notify the landholder that access has been sought and to consult with the land holder on conditions of entry. The decision is subject to review by application of the *Judicial Review Act 1991*. Importantly, the decision to permit entry is taken by the chief executive, and not by the person benefiting from the decision.

The Reason for the Departure

The amendment allows procedural review under the *Judicial Review Act 1991*.

POWERS OF BUSWAY OR LIGHT RAIL FEASIBILITY INVESTIGATORS

The *Transport Infrastructure Act 1994* is to be amended by Clause 12 to allow an authorised busway or light rail feasibility investigator for a potential busway or light rail corridor to enter any land within the stated area for the purpose of investigating the land's potential and suitability as a busway or light rail corridor and to the extent necessary or convenient for that purpose to do anything on the land, bring anything onto the land or temporarily leave machinery, equipment or other items on the land.

The Fundamental Legislative Principle

Section 4(3)(g) of the *Legislative Standards Act 1992* provides that legislation should not adversely affect the rights and liberties, or impose obligations retrospectively.

The Departure

The amendment Clause 12 inserts sections 180ZZZQ to 180ZZZZA authorises the disruption of an occupier's rights to enjoy the use of land they occupy in order to progress the development of a busway or light rail facility which has economic and social significance to Australia, Queensland or the region in which the facility is to be constructed.

The reason for the Departure

It may be necessary to enter land temporarily to conduct investigations, surveys or take samples, etc for a proposed busway or light rail facility. This investigation is necessary before acquisition of land (by negotiation, agreement or acquisition) to make sure that the land is suitable for the proposed busway or light rail. Such rights of entry are already available to public sector agencies under this and other legislation (such as the *Acquisition of Land Act 1967* or *State Development and Public Works Organisation Act 1971*), and to the private sector under the *Transport Infrastructure Act 1994* in chapter 6 for heavy rail.

The granting of an investigator's authority is only contemplated in the event that the proponent is unable to obtain agreement with a landowner for voluntary access [section 180ZZZQ].

In considering an application for an authority, the rights of the landowner are to be recognised. Early notification of the landowner is required when an application has been made to access land and that the chief executive is

obligated to negotiate and consult with the landowner while considering the application [section 180ZZZR].

The chief executive may, as part of a condition of an authority granted to access land, impose a bond or security deposit on the investigator [section 180ZZZS]. This bond or security must only be repaid if the investigator has rectified any damage or loss. The landowner has 12 months from the date of expiry of the investigator's authority to notify of any loss or damage associated with the entry. Only after such time and only if there has been no damage or loss that has not been rectified will the chief executive release the bond or security deposit to the investigator. [section 180ZZZZA].

Further, under section 180ZZZY, the landowner may require the investigator to rectify any loss or damage and claim compensation for any loss or damage not rectified resulting from the access. If parties cannot agree on compensation, the matter may be referred to the Land Court for the determination of compensation.

Section 180ZZZZ provides for payment of compensation to land owners if they suffer loss or damage arising out of entry on the land, anything done on the land or any use of the land in connection with the busway or light rail feasibility investigator's authority.

NOTES ON CLAUSES

PART 1—PRELIMINARY

Clause 1 states the short title of the Act is to be the *Transport (Busway and Light Rail) Amendment Act 2000*.

Clause 2 states this Act commences on a date to be fixed by proclamation.

PART 2—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994

Clause 3 states this part amends the *Transport Infrastructure Act 1994*.

Clause 4 amends the objectives of the *Transport Infrastructure Act 1994* to include construction of busways and light rail, and for purposes connected with facilitation and use of public transport.

Clause 5 omits the definition of "plant" and "public utility plant" in Chapter 5. These definitions for "plant" and "public utility plant" have been inserted in Schedule 3.

Clause 6 amends the scope of section 75 to include light rail or light rail transport infrastructure.

Clause 7 amends the process for notification when the chief executive grants accreditation. The chief executive is required to promptly advise an applicant by written notice. This written notice is to be accompanied by an information notice.

A definition for an "information notice" has been inserted in Schedule 3, as a notice stating that a person may ask for the decision to be reviewed and appeal against the reviewed decision (section 196), and ask for the decision or the reviewed decision to be stayed (*Transport Planning and Coordination Act 1994*, part 5).

It should be noted that Clauses 7,8,9,10 and 11 are subject to a merits based review process.

Clause 8 amends the process for notification when the chief executive makes a decision in relation to the amendment of accreditation conditions on application. The chief executive is required to promptly advise an applicant by written notice. This written notice is to be accompanied by an information notice (as defined in Schedule 3).

Clause 9 amends the process for notification when the chief executive makes a decision in relation to the amendment of accreditation conditions without application. The chief executive is required to notify a person by written notice. This written notice is to be accompanied by an information notice (as defined in Schedule 3).

Clause 10 amends the process for notification when the chief executive makes a decision to suspend or cancel accreditation. The chief executive is required to notify a person by written notice. This written notice is to be accompanied by an information notice (as defined in Schedule 3).

Clause 11 amends the process for notification when the chief executive makes a decision to immediately suspend accreditation. The chief executive is required to notify a person by written notice. This written notice is to be accompanied by an information notice (as defined in Schedule 3).

Clause 12 inserts new chapters 7A to 7C into the *Transport Infrastructure Act 1994*.

The new chapter 7A, in four parts is concerned with busways and busway transport infrastructure.

Part 1 details necessary definitions for chapter 7A in section 180A.

Section 180A inserts a definition for "construction" to be used in chapter 7A other than in part 4, division 5 of Chapter 7A.

Section 180B states how the objectives of this Act for busways are intended to be achieved.

Part 2 of Chapter 7A (sections 180C - 180F) details the chief executive's functions and powers.

Pursuant to section 180C the chief executive's many functions are outlined, by way of example these functions include investigatory, planning, maintenance, management or operating powers with respect to busways and busway transport infrastructure.

Sections 180D-180F detail the chief executive's authority to enter or temporarily occupy or use land. These sections include detailed procedures to be followed by the chief executive when it is proposed that land be entered or occupied or used.

Section 180F details the method by which compensation may be claimed by an owner or occupier if loss or damage is caused by the entry, occupation or use of the land.

Part 3 of Chapter 7A is concerned with the establishment of busways, sections 180G-180J provide for the establishment of busways.

Section 180G inserts a definition for part 3 for road.

Section 180H provides for the declaration of land as busway land.

Section 180H(2) provides for the identification of busway land.

Section 180H(3) permits the identification of land declared as busway land to be described by reference to strata.

Section 180I(1) outlines the effect of a declaration where a road is declared to be busway land.

Section 180I(2) states that a lot or a part of a lot under the *Land Title Act 1994* declared to be busway land becomes unallocated State land.

Section 180I(3) provides that Busway land can not be the subject of a declaration under section 23 of the *Transport Infrastructure Act 1994* for the land to be declared a State-controlled road.

Section 180I(4) compels the Governor in Council to lease busway land that is unallocated land State land to the State.

Section 180J confirms nothing in chapter 7A is intended to affect the operation of the *Integrated Planning Act 1997* to the extent that the establishment of the busway is development under that Act.

Part 4 of Chapter 7A contains five divisions which are concerned with the management of busway land and busway transport infrastructure. Details of each Division are as follows:

Division 1 is concerned with the interaction of the busway transport infrastructure. Sections 180K-180M detail the interaction of the busway transport infrastructure with local government.

Section 180N enables the Minister by gazette notice to designate busway land for use as a State-controlled land.

Section 180O states that if the public uses busway land as a road or for access purposes other than as a road, the busway land does not at law become dedicated to public use as a road.

Division 2 enables the authorisation of persons to interfere with busway transport infrastructure. Section 180Q provides for rectification of unauthorised interference or works.

Division 3, Sections 180R to Section 180ZD, details the relationship between the chief executive and the owners of public utility plant on busway land. Section 180S confirms the ownership of public utility plant located on land, does not change, despite a declaration of that land as busway land.

Section 180T enables a public utility provider (the provider) to do certain things including for example, as in Section 180T(1)(a) build, replace or take away, or alter, other than for maintenance or repair, in relation to any public utility plant on busway land.

Section 180T(2) states the provider may only do the things mentioned in section 180T with the chief executive's written agreement.

Section 180T(3) states the chief executive must not unreasonably withhold agreement.

Section 180T(4) provides an exception to section 180T(2) in that the provider in the interests of public safety may carry out urgent maintenance of its public utility plant on busway land without the chief executive's written agreement. However, the provider must make reasonable attempts to obtain the chief executive's oral agreement to the maintenance. The provider must, regardless of the success or otherwise of achieving the chief executive's oral agreement act as quickly as possible to advise the chief executive of the maintenance being carried out.

Section 180T(5) states building or altering public utility plant under subsection (1)(a) does not affect the ownership of the plant.

Section 180U where the chief executive has been requested in writing, the provider is to be given information about lines and levels for any planned busway transport infrastructure on busway land in order to minimise possible adverse affects of the establishment of the busway on the provider's works.

Section 180V provides for consultation by a public utility provider with the chief executive prior to the replacement of public utility plant.

Section 180W provides for the rectification of the effect of unauthorised works mentioned in Section 180T, by notice given by the chief executive to the provider, where a provider does something without the agreement of the chief executive or inconsistent with the agreement.

Section 180X enables the chief executive to require a provider to alter the position of public utility plant.

Section 180Y states that records defining the location of the plant must be provided by the provider where something mentioned in Section 180T is done.

Section 180Z sets out matters relating to liability for damage or expenses in relation to damage caused by the chief executive to public utility plant located in the busway land.

Section 180ZA-180ZB describe the circumstances under which the chief executive is not liable for damage caused to public utility plant.

Section 180ZC states the liability of the provider to pay additional expenses incurred by the chief executive under specified circumstances.

Section 180ZD states if the chief executive requires public utility plant to be removed or relocated, it is to be done in accordance with the chief executive's requirements and the costs to the chief executive may be reduced after consideration of specific matters.

Division 4 details the use of busway land. Section 180ZE states that a person must not be on busway land if the person does not have express or implied permission of the chief executive to be on the busway land.

Division 5 sets out principles in relation to the entitlement to compensation for certain matters relating to the establishment of busway land.

Section 180ZF inserts definitions for Division 5.

Section 180ZG removes an entitlement to compensation for certain matters to the extent they are caused by the establishment of busway, the matters are:

- any adverse effect on the amenity of the neighbourhood of a person with an interest in land proximate to busway land;
- interference with any activity of a business, commercial, industrial or residential nature of a person with an interest in land proximate to busway land;
- loss or damage arising directly or indirectly from interference with access for the land proximate to busway land;
- loss or damage caused by the reduction or loss of any right of access to the road network of a person with an interest in land, proximate to busway land.

Section 180ZH provides however, that there is compensation for reduced market value of an interest in land if the establishment of busway transport infrastructure on busway land is a cause of access interference with

"relevant land". The interference with access that may be compensable is to be differentiated from the reduction or loss of any right of access to the road network which Section 180ZG excludes from compensation above.

Section 180ZH(1) provides that after the establishment of busway transport infrastructure on busway land, a person who holds an interest in land (relevant land) is entitled to compensation if the establishment is a cause of access interference. The reference to "relevant land" is merely a device to distinguish throughout the busway compensation provisions between land owned or occupied by an aggrieved person and land which may be categorised as busway land or access land.

Section 180ZH(2)(a) refers to two situations for the position of busway land in relation to relevant land. Section 180ZH(2)(a)(i) provides for the situation where busway land joins directly with the relevant land including land which gains access ("access land") by way of an easement or other right or interest. Section 180ZH(2)(a)(ii) provides for the second situation where busway land and relevant land are not directly joined, and it is possible to travel from the relevant land or the access land to the busway land by traveling over road.

Section 180ZH(2)(b) and Section 180ZH(2)(c) determines the level of access interference which must be experienced by a person with an interest in relevant land before compensation may be paid.

For section 180ZH(2)(b) the practical effect of the access interference must be substantially greater than the interference that might be expected with access arrangements established by the roads authority in the administration of the road network. Examples of some of the access arrangements for the road network that may be similarly applied to the busway and light rail land include:

- designation of corridors as passenger transport only i.e. bus or transit lanes;
- designation of one way streets;
- designation of no standing zones;
- designation of commercial loading zones; and
- designation of median strips.

For section 180ZH(2)(c), the access interference must be a direct and substantial interference compared with the practicable access which existed

before the establishment of the busway. This would involve an examination of the physical circumstances of the access interference affecting the relevant land with the physical access arrangements that were in place prior to the establishment of busway transport infrastructure on busway land.

Section 180ZH(3) sets out the calculation for compensation for reduction of market value as the amount by which the market value of the interest may fairly be said to have been reduced because of access interference now affecting the relevant land.

Section 180ZH(4) limits the amount of compensation payable under this section to the amount which would be awarded if the interest had been acquired.

180ZI sets out the entitlement to compensation for a person in actual occupation for interference with enjoyment of land.

Section 180ZI(1) sets up the criteria for compensation for access interference for person who is in actual occupation of land ("relevant land") when the establishment of busway has been completed. Again the land occupied by an aggrieved person is designated as "relevant land" to be distinguished from busway land.

Section 180ZI(2) sets out in principle the same conditions as Section 180ZH(2) which must be established by a person seeking payment of compensation under this Division.

Section 180ZI(3) sets out the method of calculation for the amount of compensation payable for loss of enjoyment of land occasioned by an enjoyment interference.

Section 180ZI(4) the calculation of an amount for the payment of compensation for loss of enjoyment of land is to exclude any reduction in the market value of any estate or interest in the relevant land.

Section 180ZJ enables the chief executive to enter into an agreement with the owner or occupier of the relevant land for the supply or contribution to new access arrangements. The effect of a supply or contribution to the new access arrangements is to reduce any person's entitlement to compensation as provided in the agreement.

Section 180ZK sets out the method and time limits when applying for compensation.

The new Chapter 7B in six parts concerns light rail and light rail transport infrastructure.

Part 1 details necessary definitions for chapter 7B and in section 180ZM states how the objectives of the Act for light rail are to be achieved.

Part 2 details the chief executive's function and powers in Section 180ZN and particularly in section 180ZO with respect to light rail and light rail transport infrastructure. These functions and powers include authority to enter or temporarily occupy land, and when land may be entered, occupied or used under Section 180ZP.

Section 180ZQ in Part 2 details the circumstances in which an owner or occupier of the land may claim compensation from the chief executive for loss or damage caused by the entry, occupation or use, including by the taking or consumption of materials.

Part 3 details the establishment of light rail. Section 180ZR details definitions used in Part 3 dealing with establishment of light rail.

Section 180ZS enables the Minister to declare light rail land by gazette notice.

Section 180ZT establishes the effect on land of a light rail declaration.

Section 180ZU enables a sublease of a lease of light rail land to a light rail manager.

Section 180ZU (8) does not stop the sublease from being a lease because persons are permitted to be on the light rail land the subject of a sublease.

Section 180ZV confirms nothing in chapter 7B is intended to affect the operation of the *Integrated Planning Act 1997* to the extent that the establishment of the light rail is development under that Act.

Part 4 of Chapter 7B contains five divisions which are concerned with the management of light rail land and light rail transport infrastructure. Details of each Division are as follows:

Division 1 is concerned with the interaction of the light rail transport infrastructure. Sections 180ZW - 180ZY are concerned with the interaction of the light rail transport infrastructure and local government.

Section 180ZZ enables the designation of light rail land for use as a State-controlled land.

Section 180ZZA states that if the public uses light rail land as a road or for access purposes other than as a road, the light rail land does not at law become dedicated to public use as a road.

Division 2 details general requirements with respect to interference with light rail transport infrastructure in Section 180ZZB and Section 180ZZC.

Division 3 concerns the relationship between the chief executive and the owners of public utility plant and a light rail manager where there is one, on light rail land. Section 180ZZD to Section 180ZZP sets out the principles for public utility plant on light rail land in the same manner as Chapter 7A for public utility plant on busway land in Sections 180R to Section 180ZD.

Division 4 sets out the use of light rail land. Light rail land is to be used in the same manner as busway land is to be used as described in Section 180ZE of Chapter 7A.

Division 5 sets out details of any entitlement to compensation for certain matters relating to the establishment of light rail land. Sections 180ZZR to 180ZZW set out the principles for the payment of compensation for access interference in the same way as access interference is dealt with in Chapter 7A for Busways in Sections 180ZF to 180ZK.

Part 5 details the accreditation provisions for light rail required by managers and operators of light rail. This includes the applying for, and granting of accreditation, applicable conditions of accreditation, period of accreditation, amendment of accreditation and suspension or cancellation of accreditation.

Part 6 of Chapter 7B is concerned with light rail incidents and applies Chapter 11, part 2 of the *Transport Operations (Passenger Transport) Act 1994* to light rail in the same way it applies for a railway.

The New Chapter 7C details the requirements for the investigation of land for potential busway or light rail including required authority to conduct an investigation on manner of application for investigation authority.

Clause 12 inserts new Sections 180ZZZO to 180ZZZZB into the *Transport Infrastructure Act 1994*. These sections provide a process for the granting of, and conditions attached to, access to land for the purpose of conducting an investigation of land by persons who are considering construction.

The new Section 180ZZZS permits the grant of land entry powers to investigate the land's potential and suitability for an infrastructure facility while protecting the interests of owners of the land, but only after the chief executive has fully addressed the adequacy of the proposal.

The new Section 180ZZZT provides extensive provisions, which, while permitting investigations of land under consideration for an busway or light rail facility, safeguard the interests of landowners.

Before issuing any access authority, the chief executive must be satisfied that:

- (a) the person has made efforts to secure access by agreement with landowners; and
- (b) the person is genuinely considering construction of a busway or light rail, as described in section 180ZZZQ(3).

The new section 180ZZZO specifies that the purpose for the Chapter is to allow persons authorised by the chief executive to enter land to investigate the land's potential and suitability for the development of a busway or light rail transport infrastructure mentioned in section 180ZZZQ before the powers under Chapter 7A and Chapter 7B are exercised. It is clearly intended that the investigation precedes any temporary entry, or use or occupation under sections 180D in order to carry out a function of the chief executive for the purpose of busway or light rail transport infrastructure works.

The new section 180ZZZP inserts definitions for commonly used terms in this Division. These terms include 'associated person', 'investigator'; 'investigator's authority'; and 'owner'. The owner is defined as including any person who, to the knowledge of the chief executive, is an occupier of the land.

In the new section 180ZZZQ(3)(e) the person who has applied for the access authority (the applicant) must satisfy the chief executive that efforts have been made to access the land through a voluntary agreement with the land owner. Details must be provided of the steps taken to gain voluntary access.

The new section 180ZZZZZ(2)(a) provides that the amount of compensation for any damage mentioned in the new section 180ZZZYY is to be agreed between the parties. However, if they cannot agree within a reasonable time, the Land Court can determine the amount.

Clause 13 amends the definition of “miscellaneous transport infrastructure” to exclude busway transport infrastructure and light rail transport infrastructure.

Clause 14 inserts a new section 199A to enable the chief executive to approve forms for use under this Act.

Clause 15 amends schedule 1 of this Act with respect to the subject matter for regulation to include busway and light rail.

Clause 16 amends schedule 2 (Appeals).

Clause 17 amends schedule 3, (the Dictionary) with respect to definitions used in the *Transport Infrastructure Act 1994*.

Clause 18 states this part amends the *Transport Operations (Passenger Transport) Act 1994*.

Clause 19 amends a heading in Chapter 11, part 2 to include ' **OR LIGHT RAIL** '

Clause 20 enables the chief executive to appoint a person to be an authorised person for a light rail.

Clause 21 provides that the chief executive must give an identity card to each authorised person for a light rail.

Clause 22 inserts section 118(2) into the *Transport Infrastructure Act 1994* ensuring that the requirements with respect to heavy railway for production or display of an authorised person's identity card apply to a light rail.

Clause 23 amends section 119(1) definition official by inserting the words ‘or light rail’ after ‘for a railway’. Section 119(3) is also amended by the insertion of the words ‘is an authorised person for a railway and’ after the words ‘authorised person’.

Clause 24 inserts section 155(3) which allows regulations to be made.

Clause 25 amends the *Transport Operations (Road Use Management) Act 1995*.

Clause 26 inserts section 171(3)(ga) which allows regulations to be made under the *Transport Operations (Road Use Management) Act 1995*.

Clause 27 amends the *Transport Planning and Coordination Act 1994*.

Clause 28 amends section 3 of this Act by including necessary definitions within the Dictionary.

Clause 29 amends section 23 to ensure the functions of the chief executive are not limited by implication.

Clause 30 amends Section 25(6) concerning the chief executive's general powers regarding property.

Clause 31 inserts a new section 26A.

Clause 32 amends section 27 with respect to the power of the chief executive to lease, sell or to otherwise dispose of land to a transport GOC.