

Queensland



# TRANSPORT INFRASTRUCTURE ACT 1994

**Reprinted as in force on 27 April 1994  
(Act not amended up to this date)**

**Reprint No. 1**

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- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by section 40 of that Act.

**See Endnotes for—**

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

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# TRANSPORT INFRASTRUCTURE ACT 1994

[reprinted as in force on 27 April 1994<sup>2</sup>]

## An Act about transport infrastructure

### CHAPTER 1—PRELIMINARY

#### Short title

1. This Act may be cited as the *Transport Infrastructure Act 1994*<sup>3-4</sup>.

#### Commencement

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

#### Objectives of this Act

3.(1) The overall objective of this Act is, consistent with the objectives of the *Transport Planning and Coordination Act 1994*, to provide a regime that allows for and encourages effective integrated planning and efficient management of a system of transport infrastructure.

(2) In particular, the objectives of this Act are—

- (a) to allow the Government to have a strategic overview of the provision and operation of all transport infrastructure; and
- (b) for roads—to establish a regime under which—
  - (i) a system of roads of national and State significance can be effectively planned and efficiently managed; and
  - (ii) influence can be exercised over the total road network in a way that contributes to overall transport efficiency; and
  - (iii) account is taken of the need to provide adequate levels of

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- safety, and community access to the road network; and
- (c) for miscellaneous transport infrastructure—to establish a regime for the effective planning and efficient management of the infrastructure; and
  - (d) for rail—to establish a regime under which a rail system is provided and can be managed within an overall strategic framework by Queensland Railways as a GOC in accordance with the principles specified in the *Government Owned Corporations Act 1993*; and
  - (e) for ports—to establish a regime under which a ports system is provided and can be managed within an overall strategic framework by GOCs in accordance with the principles specified in the *Government Owned Corporations Act 1993*.

## Definitions

**4.(1)** In this Act—

**“chief executive”** means the chief executive of the department;

**“Coordination Plan”** means the Transport Coordination Plan developed under the *Transport Planning and Coordination Act 1994*;

**“GOC”** has the same meaning as in the *Government Owned Corporations Act 1993*, and includes a candidate GOC within the meaning of that Act;

**“government supported transport infrastructure”** means transport infrastructure that—

- (a) is funded, wholly or partly, by appropriations from the Consolidated Fund; or
- (b) is funded, wholly or partly, by borrowings made by the Government (other than commercial borrowings made by the Queensland Treasury Corporation acting as an agent); or
- (c) is funded, wholly or partly, by borrowings guaranteed by the Government other than borrowings for commercial investments; or
- (d) is provided by a person on the basis of conditions agreed to by the

Government that are intended to support the commercial viability of the infrastructure;

**“miscellaneous transport infrastructure”** means transport infrastructure for which the chief executive is wholly or partly responsible and that is not road transport infrastructure, rail transport infrastructure or port infrastructure;

**“port authority”** means a Harbours Board for the purposes of the *Harbours Act 1955*, other than the Harbours Corporation of Queensland;

**“port infrastructure”** includes transport infrastructure relating to ports;

**“rail transport infrastructure”** includes transport infrastructure relating to railways;

**“road transport infrastructure”** includes transport infrastructure relating to roads;

**“State-controlled road”** means a road or land, or a part of a road or land, declared under section 21 (Declaration of State-controlled roads) to be a State-controlled road;

**“transport infrastructure”** includes road, rail, port and miscellaneous transport infrastructure.

(2) Additional definitions are located in the following provisions—

- (a) for Chapter 5 (Road transport infrastructure)—
  - (i) Part 1—section 20;
  - (ii) Part 4—sections 38(11) and 39(9);
  - (iii) Part 5, Division 2, Subdivision 2—section 47;
- (b) for Chapter 6 (General provisions)—section 64;
- (c) for Chapter 7 (Savings and transitional provisions and amendments of other Acts), Part 1—section 70.

### **State/Commonwealth agreements or arrangements**

5. The powers and discretions conferred by this Act may be exercised in accordance with an agreement or arrangement between the State and the Commonwealth about the funding of transport infrastructure.

## **CHAPTER 2—TRANSPORT INFRASTRUCTURE STRATEGIES**

### **Development of transport infrastructure strategies**

**6.(1)** The chief executive must, from time to time, develop for the Minister's approval transport infrastructure strategies that are designed to give effect to the Coordination Plan in relation to transport infrastructure in accordance with the objectives of this Act.

**(2)** In developing transport infrastructure strategies, the chief executive must take reasonable steps to engage in public consultation.

**(3)** The Minister may, at any time, direct the chief executive to prepare new transport infrastructure strategies for the Minister's approval or to amend transport infrastructure strategies in the way the Minister directs.

**(4)** The Minister may approve transport infrastructure strategies that are submitted for approval or require the chief executive to amend the strategies in the way the Minister directs.

### **Contents of transport infrastructure strategies**

**7.(1)** Transport infrastructure strategies must include—

- (a) a statement of the specific objectives sought to be achieved; and
- (b) proposals for the provision of transport infrastructure; and
- (c) investment criteria for deciding priorities for government supported transport infrastructure between and within the different transport modes and options for financing the priorities; and
- (d) criteria for deciding which roads should be controlled by the chief executive as State-controlled roads; and
- (e) appropriate performance indicators for deciding whether, and to what extent, the objectives of the strategies have been achieved.

**(2)** Transport infrastructure strategies must aim to provide an adequate framework for coordinating and integrating the provision of transport infrastructure as between the different transport modes.

**(3)** Transport infrastructure strategies must take account of agreements or

arrangements between the State and the Commonwealth about the funding of transport infrastructure.

### **Tabling of transport infrastructure strategies**

**8.** The Minister must cause transport infrastructure strategies, and each amendment of transport infrastructure strategies, approved by the Minister to be tabled in the Legislative Assembly.

## **CHAPTER 3—OBLIGATIONS ABOUT TRANSPORT INFRASTRUCTURE**

### **Objective of Chapter**

**9.** In giving effect to the objective of this Act, this Chapter is intended to ensure value for money for resources applied to the construction, maintenance and operation of transport infrastructure.

### **Obligations about government supported transport infrastructure**

**10.** The chief executive, the Queensland Railways Board and the board of each port authority must ensure that—

- (a) the construction, maintenance and operation of all government supported transport infrastructure for which the entity is responsible is carried out in accordance with standards published by the entity that are designed to achieve—
  - (i) efficiency; and
  - (ii) affordable quality; and
  - (iii) cost effectiveness; and
- (b) construction, maintenance or operation is carried out in a way that—
  - (i) takes into account national and international benchmarks and international best practice; and

- (ii) promotes, within overall transport objectives, the safe transport of persons and goods; and
  - (iii) encourages efficient and competitive behaviour in the construction and maintenance of transport infrastructure; and
- (c) contracts that are let for the construction, maintenance or operation of transport infrastructure are designed in a way that encourages efficient performance by the contractor.

### **Report on giving effect to s 10**

**11.** Each annual report of the department, Queensland Railways and each port authority must include a report on the way in which effect has been given to section 10 (Obligations about government supported transport infrastructure) during the year to which the report relates.

## **CHAPTER 4—IMPLEMENTATION OF TRANSPORT INFRASTRUCTURE STRATEGIES**

### **PART 1—ROADS IMPLEMENTATION PROGRAMS**

#### **Development of roads implementation programs**

**12.(1)** The chief executive must, each year, develop for the Minister's approval roads implementation programs for the year and for 1 or more later years.

**(2)** Roads implementation programs must include—

- (a) a program of projects, and policies and financial provisions, for implementing the transport infrastructure strategies in relation to road transport infrastructure, including roads that are not State-controlled roads; and
- (b) performance targets for road transport infrastructure.

**(3)** Roads implementation programs may include proposals to spend

amounts on transport infrastructure other than road transport infrastructure if the spending would contribute to intermodal effectiveness and efficiency.

(4) In developing roads implementation programs, the chief executive must take reasonable steps to consult with local governments that, in the opinion of the chief executive, would be affected by the programs.

(5) Roads implementation programs are to be made publicly available in the way decided by the Minister.

(6) The Minister may at any time direct the chief executive to amend roads implementation programs.

(7) The Minister may approve roads implementation programs that are submitted for approval or require the chief executive to amend the programs in the way the Minister directs.

### **Consistency with transport infrastructure strategies**

**13.(1)** Subject to directions of the Minister, roads implementation programs must be consistent with transport infrastructure strategies.

(2) If the Minister gives a direction under this section that results in roads implementation programs being inconsistent with transport infrastructure strategies, the Minister must cause a copy of the direction to be tabled in the Legislative Assembly within 5 sitting days after it is given.

### **Report on operation of roads implementation programs**

**14.** Each annual report of the department must include a report on the operation of the roads implementation programs during the year to which the annual report relates.

## **PART 2—IMPLEMENTATION PROGRAMS FOR MISCELLANEOUS TRANSPORT INFRASTRUCTURE**

### **Development of implementation programs for miscellaneous transport infrastructure**

**15.(1)** The chief executive must, each year, develop for the Minister's approval implementation programs for miscellaneous transport infrastructure for the year and for 1 or more later years.

**(2)** Implementation programs for miscellaneous transport infrastructure must include—

- (a) a program of projects, and policies and budgets, for implementing the transport infrastructure strategies about the miscellaneous transport infrastructure covered by the programs; and
- (b) performance targets for that miscellaneous transport infrastructure.

**(3)** Implementation programs for miscellaneous transport infrastructure may include proposals to spend amounts on transport infrastructure other than miscellaneous transport infrastructure if the spending would contribute to intermodal effectiveness and efficiency.

**(4)** In developing implementation programs for miscellaneous transport infrastructure, the chief executive must take reasonable steps to consult with local governments that, in the opinion of the chief executive, would be affected by the programs.

**(5)** Implementation programs for miscellaneous transport infrastructure are to be made publicly available in the way decided by the Minister.

**(6)** The Minister may at any time direct the chief executive to amend implementation programs for miscellaneous transport infrastructure.

**(7)** The Minister may approve implementation programs for miscellaneous transport infrastructure that are submitted for approval or require the chief executive to amend the programs in the way the Minister directs.

**Consistency with transport infrastructure strategies**

**16.(1)** Subject to directions of the Minister, implementation programs for miscellaneous transport infrastructure must be consistent with transport infrastructure strategies.

**(2)** If the Minister gives a direction under this section that results in implementation programs for miscellaneous transport infrastructure being inconsistent with transport infrastructure strategies, the Minister must cause a copy of the direction to be tabled in the Legislative Assembly within 5 sitting days after it is given.

**Report on operation of implementation programs for miscellaneous transport infrastructure**

**17.** Each annual report of the department must include a report on the operation of the implementation programs for miscellaneous transport infrastructure during the year to which the annual report relates.

**PART 3—TRANSPORT GOCS****Transport GOCs**

**18.(1)** In preparing a corporate plan or a statement of corporate intent, Queensland Railways and each port authority must take into account the transport infrastructure strategies.

**(2)** Queensland Railways or a port authority may spend amounts on transport infrastructure other than rail transport infrastructure or port infrastructure if the spending would contribute to effectiveness and efficiency.

## **CHAPTER 5—ROAD TRANSPORT INFRASTRUCTURE**

### **PART 1—PRELIMINARY**

#### **Scope of Chapter**

**19.(1)** To give effect to the objectives of this Act in relation to road transport infrastructure, the chief executive has, subject to the Minister and as required by this Chapter—

- (a) the function of influencing the total road network; and
- (b) control over roads of State significance in the total road network, including roads of national significance that are managed in accordance with agreements or arrangements between the State and the Commonwealth about the funding of road transport infrastructure.

**(2)** This Chapter establishes a framework under which the construction, maintenance or operation of a State-controlled road can be done by the chief executive, or by a local government or someone else under agreements or arrangements with the chief executive.

#### **Definitions**

**20.(1)** In this Chapter—

**“ancillary works and encroachments”** means—

- (a) the following things—
  - (i) cane railways, tramways or monorails;
  - (ii) bridges, overhead conveyors or other overhead structures;
  - (iii) tunnels;
  - (iv) rest area facilities;
  - (v) monuments or statues;
  - (vi) advertising signs or other advertising devices;

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- (vii) traffic and service signs;
  - (viii) bores, wells, pumps, windmills, pipes, channels, culverts, viaducts, tanks or dams;
  - (ix) cables;
  - (x) means of access;
  - (xi) paths or bikeways;
  - (xii) grids or other stock facilities;
  - (xiii) buildings, shelters, awnings or mail boxes;
  - (xiv) poles, lighting, gates or fences; or
- (b) any of the following activities—
- (i) drilling;
  - (ii) clearing;
  - (iii) trimming;
  - (iv) slashing;
  - (v) landscaping;
  - (vi) planting;
  - (vii) burning off;
  - (viii) removing trees;
  - (ix) road safety related activities;
  - (x) sporting activities;
  - (xi) camping;
  - (xii) conducting a business (for example, a market);
  - (xiii) movement of stock, other than under the *Rural Lands Protection Act 1985*;
  - (xiv) holding meetings; or
- (c) other encroachments declared by regulation to be ancillary works and encroachments;
- but does not include public utility plant;

**“construction”**, in relation to road transport infrastructure, includes—

- (a) initial construction; and
- (b) improvement of the standard; and
- (c) realignment; and
- (d) widening;

that involves the development of road transport infrastructure;

**“land”** includes—

- (a) an interest in land; and
- (b) land within the beds and banks of a stream, watercourse or inundated land; and
- (c) land beneath the internal waters of Queensland;

**“local government road”** means a road that is under the control of a local government;

**“maintenance”** includes—

- (a) rehabilitation; and
- (b) replacement; and
- (c) repair; and
- (d) recurrent servicing; and
- (e) preventive and remedial action; and
- (f) removal; and
- (g) alteration; and
- (h) maintaining systems and services for transport infrastructure;

**“means of access”** means the physical means of entry or exit for traffic between land and a road;

**“motorway”** means a State-controlled road that is declared to be a motorway under section 23 (Declaration of motorways);

**“occupier”** of land means the person in actual occupation of the land or, if there is no person in actual occupation, the person entitled to possession of the land;

**“on”** a road includes within, under and over the road;

**“owner”** of land means—

- (a) the registered proprietor of the land; or
- (b) the lessee or licensee from the State of the land; or
- (c) the person who has lawful control of the land, on trust or otherwise; or
- (d) the person who is entitled to receive the rents and profits of the land;

**“person”** includes a partnership or other association or body, whether incorporated or unincorporated;

**“plant”** includes any of the following things—

- (a) a railway, monorail and tramway;
- (b) viaduct and aqueduct;
- (c) conduit and cable;
- (d) overhead conveyer;
- (e) pipeline;
- (f) pole;
- (g) electrical installation within the meaning of the *Electricity Act 1976*;
- (h) telecommunications plant;
- (i) water channel;

**“public utility plant”** means plant that is permitted under another Act or a Commonwealth Act to be on a road;

**“road”** means—

- (a) an area of land dedicated to public use as a road; or
- (b) an area that is open to or used by the public and is developed for, or has as 1 of its main uses, the driving or riding of motor vehicles; or
- (c) a bridge, culvert, ferry, ford, tunnel or viaduct; or
- (d) a pedestrian or bicycle path; or

- (e) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in paragraphs (a) to (d);

**“road works”** means works done for—

- (a) constructing roads or things associated with roads; or  
 (b) the maintenance of roads or of things associated with roads (other than public utility plant); or  
 (c) facilitating the operation of road transport infrastructure;

and includes works declared by the regulations to be road works;

**“State government body”** means—

- (a) a department or a division, branch or other part of a department; or  
 (b) a State instrumentality, agency, authority or entity or a division, branch or other part of a State instrumentality, agency, authority or entity; or  
 (c) a GOC;

but does not include a local government;

**“traffic”** includes the passing back and forth of persons, vehicles and animals.

(2) Additional definitions for Subdivision 2 of Division 2 of Part 5 are located in section 47 (Definitions).

## **PART 2—STATE—CONTROLLED ROADS**

### *Division 1—Declaration of State-controlled roads*

#### **Declaration of State-controlled roads**

**21.(1)** The Minister may, by Gazette notice, declare a road or route, or part of a road or route, to be a State-controlled road.

(2) A declaration must be consistent with criteria about the declaration of

State-controlled roads in the transport infrastructure strategies.

(3) A declaration must enable the location of the road to be identified.

(4) The location may be identified by specifying—

- (a) the starting and ending points of the road; and
- (b) the alignment of the road; and
- (c) the width of the road by reference to the constructed centre line of the road pavement or surface.

(5) Unless otherwise specified in a declaration, the width of a State-controlled road through a State reserve, State forest, timber reserve, vacant State land or pastoral holding is 30 m each side of the centre line of the trafficked route.

### **Consultation before declaration**

22. Before making or revoking a declaration under section 21 (Declaration of State-controlled roads), the Minister must—

- (a) notify each local government that would, in the Minister's opinion, be affected by the proposed declaration or revocation; and
- (b) give the local governments a reasonable opportunity to make submissions to the Minister on the proposed declaration or revocation.

### ***Division 2—Motorways***

#### **Declaration of motorways**

23.(1) The Minister may, by Gazette notice, declare that the whole or a part of a State-controlled road is a motorway.

(2) A declaration must enable the location of the motorway to be identified.

(3) Before making or revoking a declaration, the Minister must—

- (a) notify each local government that would, in the Minister's

opinion, be affected by the proposed declaration or revocation;  
and

- (b) give the local governments a reasonable opportunity to make submissions to the Minister on the proposed declaration or revocation.

### *Division 3—Chief executive to have powers of a local government*

#### **Chief executive to have power of a local government for State-controlled roads**

**24.** The chief executive may exercise, for a State-controlled road in the area of a local government, all of the powers that the local government may exercise for a local government road in the area.

## **PART 3—CONSTRUCTION, MAINTENANCE AND OPERATION**

### **Powers of chief executive for road works contracts etc.**

**25.(1)** The chief executive may, in accordance with the relevant roads implementation program, carry out, or enter into contracts for the State with other persons (including local governments, State government bodies and agencies of the Government of some other State or of a Territory) for the carrying out of—

- (a) road works on a State-controlled road or on land that is intended to become a State-controlled road; or
- (b) other works that contribute to the effectiveness and efficiency of the road network; or
- (c) the operation of a State-controlled road.

**(2)** The chief executive may, for the State, carry out road works on a local government road in accordance with an agreement between the chief executive and the local government.

(3) The chief executive may, for the State, enter into contracts with other persons for road works to be carried out outside the State by the chief executive, a local government, a State government body or a contractor to the chief executive in accordance with an agreement between the State and the other State or Territory concerned.

(4) A contract with a local government under this section about the maintenance and operation of a State-controlled road may include arrangements about which powers of the local government are to be exercised by the chief executive and which of the powers are to be exercised by the local government for the State-controlled road.

(5) A local government may enter into a contract mentioned in subsection (1) even though the contract relates to works or operation outside the local government's area.

(6) The chief executive may, for the State, carry out, or enter into contracts for, works on or adjacent to a State-controlled road at the request of the owner of adjacent land on the basis that the owner provides consideration, whether monetary or otherwise, as agreed between the chief executive and the owner.

(7) This section does not prevent the chief executive carrying out, or entering into contracts for the carrying out, of road works of a minor or emergency nature.

### **Obligations in carrying out of works or operation of roads by the chief executive**

26. In carrying out works, or the operation of roads, mentioned in section 25 (Powers of chief executive for road works contracts etc.), the chief executive must ensure that the carrying out is done on a price competitive basis.

### **Contracts to encourage efficiency**

27.(1) In entering into contracts of the kind mentioned in section 25 (Powers of chief executive for road works contracts etc.), the chief executive must ensure that open competition is encouraged.

(2) Subsection (1) does not apply to a contract with a person if the person is the sole invitee and enters into a price performance contract with the chief

executive.

### **Cost sharing arrangements**

**28.** The chief executive may arrange with another person (including a local government and a State government body) for the sharing by the chief executive with the other person of the cost of—

- (a) acquisition of land for transport infrastructure; or
- (b) road works on a State-controlled road; or
- (c) other works that contribute to the effectiveness and efficiency of the road network; or
- (d) the operation of a State-controlled road;

including all necessary preliminary costs associated with the acquisition, works or operation.

### **Prohibition on road works etc. on State-controlled roads**

**29.(1)** A person must not, without lawful excuse or the written approval of the chief executive—

- (a) carry out road works on a State-controlled road; or
- (b) interfere with a State-controlled road or its operation.

Maximum penalty—40 penalty units.

**(2)** An approval may be subject to conditions decided by the chief executive.

**(3)** A person must not contravene a condition that applies to the person under subsection (2).

Maximum penalty—40 penalty units.

**(4)** Subsection (1) does not apply to a person who carries out maintenance of ancillary works and encroachments or landscaping that does not interfere with a State-controlled road or its operation.

**Offender to pay cost of remedying unauthorised works**

**30.(1)** If a person carries out works contrary to section 29(1) (Prohibition on road works etc. on State-controlled roads), the chief executive may—

- (a) dismantle or alter the works; or
- (b) remedy damage caused by the works.

**(2)** If the chief executive causes the works to be dismantled or altered or the damage to be remedied under subsection (1), the person is liable to pay to the chief executive the costs incurred by the chief executive.

**Temporary occupation and use of land**

**31.** To carry out road works, the chief executive may temporarily occupy and use land, including roads, and do anything on the land that is necessary or convenient to be done.

**Notice of entry or permission to enter**

**32.(1)** The person who is proposing to occupy or use land under section 31 (Temporary occupation and use of land) must—

- (a) give at least 3 days' written notice to the owner or occupier of the land; or
- (b) obtain the written approval of the owner or occupier to the occupation or use.

**(2)** The notice must state—

- (a) the road works to be carried out; and
- (b) the use proposed to be made of the land; and
- (c) details of the things proposed to be done on the land; and
- (d) an approximate period when the occupation or use is expected to continue.

**(3)** A notice may be given under subsection (1) in relation to land even if it is proposed to resume the land for road works.

**(4)** After the end of 3 days after service of a notice under subsection (1), or with the agreement of the owner or occupier, the land may be entered and

the road works specified in the notice carried out.

(5) If urgent remedial attention is required, subsection (1) does not apply but the person who is proposing to occupy or use the land must, if it is practicable, notify the owner or occupier of the land orally.

### **Compensation for physical damage from entry etc.**

**33.(1)** An owner of land that is entered, occupied or used under section 31 (Temporary occupation and use of land) may give a written notice to the chief executive claiming compensation for physical damage caused by the entry, occupation or use or for the taking or consumption of materials.

(2) Compensation is not payable unless a claim is received by the chief executive within 1 year after occupation or use has ended.

(3) However, the chief executive may allow a claim to be made at a later time.

(4) Compensation awarded under this section must not be more than the compensation that would have been awarded if the land had been acquired.

### **Fencing State-controlled roads**

**34.(1)** The chief executive does not have to contribute to the fencing of the whole or a part of the boundary between land and—

- (a) an existing State-controlled road; or
- (b) a road or land that is intended to become a State-controlled road; or
- (c) a widening or deviation of a State-controlled road involving the acquisition of land.

(2) However, subsection (1)(b) does not apply to an existing road if the land is substantially fenced and the presence of the road will make the fencing ineffective.

(3) Subsection (1)(c) does not apply if the previous boundary of the road was substantially fenced.

**Watercourses and road works**

**35.(1)** To carry out road works, the chief executive may—

- (a) divert a watercourse; or
- (b) construct a watercourse, whether temporary or permanent.

**(2)** In taking action under subsection (1), the chief executive must consider the effect that the action will have on the physical integrity and flow characteristics of the watercourse.

**(3)** The chief executive may enter and occupy private land under section 31 (Temporary occupation and use of land) and carry out works that the chief executive considers necessary or desirable to enable a watercourse to operate effectively and efficiently.

## **PART 4—RELATIONSHIP WITH LOCAL GOVERNMENTS**

**Funds for works on, or operation of, local government roads etc.**

**36.(1)** The chief executive may enter into an agreement with a local government under which the chief executive supplies funds to the local government for road works on a local government road, for other works that contribute to the effectiveness and efficiency of the road network or for the operation of a local government road.

**(2)** The agreement—

- (a) must provide for the works or operation to be carried out in accordance with an agreement between the chief executive and the local government that is designed to ensure value for money in the application of the funds; and
- (b) may be subject to other conditions.

**Improvement of State-controlled road as an economic alternative to improvement of the local road network**

**37.** If a local government concludes that improvements to a State-controlled road in its area would be beneficial to the local road network, the local government may make financial arrangements with the chief executive for the improvements to be made.

**Impact of certain local government decisions on State-controlled roads**

**38.(1)** A local government must obtain the chief executive's written approval if—

- (a) it intends to—
  - (i) approve a subdivision, rezoning or development of land; or
  - (ii) carry out road works on a local government road or make changes to the management of a local government road; and
- (b) the approval, works or changes would—
  - (i) require the carrying out of road works on a State-controlled road; or
  - (ii) otherwise have a significant adverse impact on a State-controlled road; or
  - (iii) have a significant impact on the planning of a State-controlled road or a future State-controlled road.

**(2)** The chief executive may make guidelines to which local governments must have regard in deciding whether an approval of the chief executive under subsection (1) is required.

**(3)** An approval by the chief executive under subsection (1) may be subject to conditions, including a condition that consideration, whether monetary or otherwise, be given in compensation for the impact that the subdivision, rezoning, development, road works or changes will have.

**(4)** Subsection (1) does not apply if the conditions applied and enforced by the local government for the subdivision, rezoning, development, road works or changes comply with permission criteria fixed by the chief executive.

**(5)** The permission criteria may include conditions, including a condition

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that consideration, whether monetary or otherwise, be given in compensation for the impact that the subdivision, rezoning, development, road works or changes will have.

(6) A local government must comply with conditions that apply to it under this section.

(7) A failure by a local government to obtain an approval under subsection (1) in relation to the approval of a subdivision, rezoning or development of land does not invalidate the approval by the local government.

(8) If a local government contravenes subsection (1) or a condition that applies to it under this section, the local government is liable to compensate the chief executive for the cost of road works to State-controlled roads that are reasonably required because of the contravention.

(9) An approval by the chief executive under subsection (1) must be given—

- (a) within 21 days after receiving the application for approval; or
- (b) within a longer period notified to the local government by the chief executive within the 21 day period.

(10) If—

- (a) a local government applies for an approval under subsection (1); and
- (b) the chief executive does not respond to the application within 21 days after receiving the application;

the chief executive is taken to have given approval at the end of the 21 days.

(11) In this section—

**“future State-controlled road”** means a road or land that the chief executive has notified the local government in writing is intended to become a State-controlled road.

(12) The chief executive must cause a copy of each notice under subsection (11) to be published in the Gazette.

**Distraction of traffic on motorways**

**39.(1)** A local government must obtain the chief executive's written approval if it intends to approve the erection, alteration or operation of an advertising sign or other advertising device that would be—

- (a) visible from a motorway; and
- (b) beyond the boundaries of the motorway; and
- (c) reasonably likely to create a traffic hazard for the motorway.

**(2)** The chief executive may make guidelines to which local governments must have regard in deciding whether an approval of the chief executive under subsection (1) is required for particular motorways.

**(3)** An approval by the chief executive under subsection (1) may be subject to conditions.

**(4)** Subsection (1) does not apply if the conditions applied by the local government to the erection, alteration or operation of the sign or device comply with permission criteria fixed by the chief executive.

**(5)** The permission criteria may include conditions.

**(6)** A local government must comply with conditions that apply to it under this section.

**(7)** An approval by the chief executive under subsection (1) must be given—

- (a) within 21 days after receiving the application for approval; or
- (b) within a longer period notified to the local government by the chief executive within the 21 day period.

**(8)** If—

- (a) a local government applies for an approval under subsection (1); and
- (b) the chief executive does not respond to the application within 21 days after receiving the application;

the chief executive is taken to have given approval at the end of the 21 days.

**(9)** In this section—

**“motorway”** includes a road or land that the chief executive has notified the

local government in writing is intended to become a motorway.

(10) The chief executive must cause a copy of each notice under subsection (9) to be published in the Gazette.

### **Effect of decisions of Planning and Environment Court**

**40.(1)** If—

- (a) an approval under section 38(1) (Impact of certain local government decisions on State-controlled roads) is subject to conditions; and
- (b) a local government imposes conditions on the subdivision, rezoning, development, road works or changes to which the approval relates; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the conditions of the approval under section 38(1), the conditions of the approval are taken to be amended accordingly.

**(2)** If—

- (a) there are permission criteria relevant to a subdivision, rezoning, development, road works or changes mentioned in section 38; and
- (b) a local government imposes conditions on the subdivision, rezoning, development, road works or changes; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the permission criteria, the permission criteria are taken to be amended accordingly in their application to the subdivision, rezoning, development, road works or changes.

**(3)** If—

- (a) an approval under section 39(1) (Distraction of traffic on motorways) is subject to conditions; and

- (b) a local government imposes conditions on the relevant erection, alteration or operation of the sign or other device; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the conditions of the approval under section 39(1), the conditions of the approval are taken to be amended accordingly.

(4) If—

- (a) there are permission criteria relevant to the erection, alteration or operation of a sign or other device mentioned in section 39; and
- (b) a local government imposes conditions on the erection, alteration or operation; and
- (c) the Planning and Environment Court amends the conditions mentioned in paragraph (b);

then, to the extent to which the amendment relates to the permission criteria, the permission criteria are taken to be amended accordingly in their application to the erection, alteration or operation.

(5) The Planning and Environment Court is not to amend conditions as mentioned in this section without giving the chief executive a chance to be heard.

### **Management of particular functions on State-controlled roads by local governments**

**41.(1)** A local government may exercise, for a State-controlled road in its area, all the powers that it may exercise for a local government road in its area.

(2) However, if there is a contract of the kind mentioned in section 25(4) (Powers of chief executive for road works contracts etc.) between the chief executive and a local government, the exercise of the powers must be done as required by the contract.

(3) If there is no contract of the kind mentioned in section 25(4) between the chief executive and a local government, the chief executive may direct the local government not to exercise any or some of its powers for a State-controlled road specified in the direction.

(4) A direction under subsection (3) may be subject to conditions.

(5) A local government must comply with directions or conditions under this section.

(6) The exercise of a power by a local government under this section is not a contravention of this Act.

## **PART 5—MANAGEMENT OF STATE-CONTROLLED ROADS**

### *Division 1—Prevention of damage and ensuring safety*

#### **Temporary restrictions on use of State-controlled roads**

**42.(1)** If the chief executive considers that it is appropriate that a decision be made to prevent damage to road transport infrastructure or to ensure the safety of road users and other persons, the chief executive may make a written decision that—

- (a) a State-controlled road is temporarily closed to all traffic or traffic of a particular class; or
- (b) a State-controlled road may, during a specified limited period, only be used—
  - (i) at specified times; or
  - (ii) by particular classes of vehicles; or
  - (iii) in accordance with conditions (including restrictions on the weight of loads of vehicles) fixed by the chief executive.

(2) A decision under subsection (1) must be advertised by appropriate signs and, if practicable, by notice in a newspaper circulating in the area.

(3) Road users must comply with a decision in force under subsection (1).

Maximum penalty—40 penalty units.

(4) Neither the State nor the chief executive is liable for damage or injury

caused directly because of a contravention of a decision in force under subsection (1).

### **Removal of materials etc.**

**43.(1)** A person must not, without lawful excuse, damage, remove or interfere with naturally occurring materials, stockpiles of materials, watercourses, road works or ancillary works and encroachments on a State-controlled road.

Maximum penalty—40 penalty units.

**(2)** A person must not, without lawful excuse, alter or interfere with a watercourse in a way that adversely affects a State-controlled road.

Maximum penalty—40 penalty units.

**(3)** A person must not deposit rubbish or abandon goods or materials on a State-controlled road other than at places approved by, and under conditions fixed by, the chief executive.

Maximum penalty—40 penalty units.

### **Recovery of cost of damage**

**44.(1)** If—

- (a) a person intentionally, recklessly or negligently causes damage to road works or ancillary works and encroachments on a State-controlled road, whether or not an offence is committed; and
- (b) the chief executive repairs the damage or replaces or reconstructs as necessary the road works or ancillary works and encroachments;

the person is liable to pay to the chief executive the cost of repair, replacement or reconstruction.

**(2)** If—

- (a) the damage is caused by the operation of a vehicle; and
- (b) the driver of the vehicle is unknown or cannot be located;

the person in whose name the vehicle is registered is liable for the costs of repair, replacement or reconstruction for which the driver would be liable.

(3) Subsection (2) does not apply if the vehicle was being used without the agreement or knowledge of the person in whose name the vehicle is registered.

(4) If—

- (a) a court finds a person guilty of an offence against this Act; and
- (b) in committing the offence, the person caused damage to road works or ancillary works and encroachments;

the court may, in addition to imposing a penalty, order the person to pay an amount towards the cost of repairing the damage.

### *Division 2—Ancillary works and encroachments and roadside facilities*

#### *Subdivision 1—General rules for ancillary works and encroachments*

### **Ancillary works and encroachments**

**45.(1)** The chief executive may construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road.

(2) The chief executive may, by Gazette notice, decide that specified ancillary works and encroachments must not be constructed, maintained, operated or conducted on State-controlled roads, or on State-controlled roads in a specified district, without the written approval of the chief executive.

(3) A person must not construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road contrary to a notice under subsection (2).

Maximum penalty—40 penalty units.

(4) Subsection (3) does not apply to the construction, maintenance, operation or conduct of ancillary works and encroachments on a State-controlled road if the construction, maintenance, operation or conduct—

- (a) conforms to requirements specified by the chief executive by Gazette notice; or

(b) is done as required by a contract entered into with the chief executive.

(5) An approval or requirements under this section may be subject to conditions (including conditions about the payment of fees and other charges) fixed by the chief executive.

(6) A thing is not done contrary to this section if it is permitted under the *Land Act 1962*, the *Traffic Act 1949* or an Act about local government.

### **Alteration etc. of ancillary works and encroachments**

**46.(1)** If ancillary works and encroachments are constructed, maintained, operated or conducted contrary to section 45 (Ancillary works and encroachments), the chief executive may—

- (a) cause them to be altered, relocated, made safe or removed; or
- (b) for activities—direct that their conduct be altered or that they stop being conducted.

(2) A person who constructed, maintained or operated ancillary works and encroachments contrary to section 45 is liable to pay to the chief executive the cost of altering or relocating them, making them safe or removing them.

(3) If ancillary works and encroachments are removed under subsection (1), the chief executive may cause them to be sold or destroyed.

(4) If the chief executive is of the opinion that ancillary works and encroachments, or the use of ancillary works and encroachments, that were constructed, maintained, operated or conducted on a State-controlled road under an approval, requirements or contract under section 45—

- (a) are creating a traffic hazard for the road; or
- (b) have become an obstacle to the carrying out of road works on the road or to the construction, augmentation, alteration or maintenance of public utility plant on the road;

the chief executive may cause them to be, or direct that they be, altered, relocated, made safe or removed or, for activities, direct that their conduct be altered or that they stop being conducted.

(5) Subsection (4) does not apply to a means of access.

(6) A person must comply with a direction under this section.

Maximum penalty—40 penalty units.

(7) If ancillary works and encroachments are altered, relocated, made safe or removed because of a direction under subsection (4), the chief executive may enter into an agreement with the owner of the ancillary works and encroachments for making a contribution towards the cost of the alteration, relocation, making safe or removal.

### *Subdivision 2—Special arrangements for means of access*

#### **Definitions**

47. In this Subdivision—

**“approved means of access”** means a means of access that is constructed, maintained or operated under—

- (a) an approval, requirements or contract under section 45 (Ancillary works and encroachments); or
- (b) an approval under section 49 (Management of access between individual properties and State-controlled roads);

**“State-controlled road”** includes a road or land that the chief executive has notified the relevant local government in writing is intended to become a State-controlled road.

#### **Access-limited roads**

48.(1) The chief executive may, by Gazette notice, declare that a State-controlled road is an access-limited road.

(2) Before making or revoking a declaration under subsection (1) the chief executive must—

- (a) notify each local government that would, in the chief executive’s opinion, be affected by the proposed declaration or revocation; and
- (b) give the local governments a reasonable opportunity to make submissions to the chief executive on the proposed declaration or

revocation.

(3) A notice under subsection (1) must—

- (a) specify the policy that will be applied in dealing with the application of section 49 (Management of access between individual properties and State-controlled roads) to access between the State-controlled road and adjacent land; and
- (b) enable the location of the access-limited road to be identified.

(4) Action under subsection (1) must be advertised by notice in a newspaper circulating generally in the area.

(5) If a State-controlled road is declared to be an access-limited road, a person must not construct or alter a means of access between land and the road other than under section 49.

### **Management of access between individual properties and State-controlled roads**

**49.(1)** The chief executive may, in response to an application by a person or on the initiative of the chief executive, for a State-controlled road and particular adjacent land make a written decision specifying—

- (a) that access between the State-controlled road and a specified part of the land is prohibited; or
- (b) the location of a means of access between the State-controlled road and the land; or
- (c) that the existing location, type or use of a means of access between the State-controlled road and the land should be changed in a way specified by the chief executive; or
- (d) conditions that are to apply to the use of a means of access between the State-controlled road and the land.

(2) Conditions under section (1)(d) include conditions—

- (a) prohibiting use of the means of access by pedestrians; and
- (b) prohibiting right turns by vehicles going in or out of the property; and
- (c) about the type and number of vehicles using the means of access;

and

(d) about the times when the means of access may be used.

(3) The chief executive may take action under this section on the chief executive's own initiative for an approved means of access only if the means of access, or the use of it, in the chief executive's opinion—

(a) is creating a traffic hazard; or

(b) has become an obstacle to the carrying out of road works on a State-controlled road or to the construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road.

(4) If the chief executive makes a decision under this section, the chief executive must give the owner and occupier of the land written notice of the decision.

### **Offence for obtaining access contrary to Subdivision or breaching condition**

**50.(1)** A person must not obtain access to or from a State-controlled road contrary to this Subdivision.

(2) A person must not contravene a condition under this Subdivision.

Maximum penalty—40 penalty units.

### **Chief executive may take steps to enforce a decision under this Subdivision**

**51.(1)** The chief executive may take steps that are reasonable and necessary to prevent a person obtaining access contrary to section 50 (Offence for obtaining access contrary to Subdivision or breaching condition).

(2) If the chief executive takes action under subsection (1) because of a person obtaining access contrary to section 50, the person is liable to pay to the chief executive the cost of taking the action.

**Chief executive may supply or contribute to new access arrangements**

**52.** If the use of an approved means of access between a State-controlled road and a part of adjacent land is prohibited under this Subdivision, the chief executive may enter into an agreement with the owner or occupier of the land for—

- (a) the supply of, or a contribution towards the supply of, an alternative means of access between the land and the State-controlled road or between the land and another road; or
- (b) the carrying out, or a contribution towards the carrying out, of other works in relation to the land.

**Compensation where access prohibited**

**53.** If—

- (a) the use of an approved means of access between a State-controlled road and a part of adjacent land is prohibited under this Subdivision; and
- (b) either—
  - (i) the chief executive and the owner or occupier can not reach agreement about action to be taken under section 52 (Chief executive may supply or contribute to new access arrangements); or
  - (ii) the chief executive decides that it is not practicable to take action under section 52;

the owner or occupier may recover from the chief executive compensation for the diminution in value because of the prohibition.

**Cases where compensation not payable**

**54.(1)** Compensation is payable under section 53 (Compensation where access prohibited) to a person only if a claim is given to the chief executive within 1 year after—

- (a) the day when the relevant decision took effect; or
- (b) the day when the person was first notified by the chief executive

of the decision;

whichever is the later.

(2) However, the chief executive may allow a claim to be made at a later time.

(3) The chief executive is not liable to pay compensation for action under this Subdivision prohibiting the use of an existing means of access if it is not an approved means of access.

(4) The chief executive is not liable to pay compensation for action under this Subdivision in relation to land if action is taken to acquire the land.

### *Subdivision 3—Roadside facilities*

#### **Roadside facilities**

**55.(1)** The chief executive may supply, or enter into an agreement with another person for the supply of, roadside service centres, roadside rest facilities and other roadside businesses adjacent to or near State-controlled roads.

(2) The agreement may include—

- (a) arrangements for supplying access to the facility from the road; and
- (b) provision for payment of amounts to the chief executive, whether by lump sum or annual rental, in consideration for supplying the access or for supplying access to the traffic stream.

### *Division 3—Public utility plant on State-controlled roads*

#### **Location and requirements**

**56.(1)** For the purposes of this Division, the location of public utility plant on a State-controlled road includes the line, level and boundary of the plant on the road.

(2) The chief executive may, by written notice given to the owner of public utility plant, make requirements about the public utility plant on a

State-controlled road.

- (3) The requirements may relate to—
- (a) the location of the public utility plant to meet present or future road transport infrastructure needs; and
  - (b) the construction of road works because of the construction, augmentation, alteration or maintenance of the plant; and
  - (c) traffic operations associated with the construction, augmentation, alteration or maintenance of the plant or with construction of road works.

### **Specification of chief executive's requirements about public utility plant**

**57.(1)** The construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road must be undertaken in accordance with the chief executive's requirements and at the expense of the owner of the plant.

(2) Road works on a State-controlled road made necessary by the construction, augmentation, alteration or maintenance of public utility plant on a State-controlled road must be undertaken in accordance with the chief executive's requirements and at the expense of the owner of the plant.

(3) Requirements mentioned in subsection (1) or (2) are to be notified in writing to the owner of the plant within a reasonable period.

### **Information by owner of public utility plant to chief executive**

**58.(1)** A person who wants to take action mentioned in section 57 (Specification of chief executive's requirements about public utility plant) must give a written notice to the chief executive of the person's intention to carry out work on a State-controlled road within a reasonable time before taking the action.

(2) If public utility plant is constructed, augmented, altered or maintained on a State-controlled road, the owner of the plant must prepare records that adequately define the location of the plant on the road at the time of the construction, augmentation, alteration or maintenance of the plant.

(3) The owner of public utility plant on a State-controlled road must, if asked by the chief executive, supply information to the chief executive to define adequately the location of the plant in a specified area.

Maximum penalty for subsection (3)—40 penalty units.

### **Liability for damage or expenses**

**59.(1)** Unless the chief executive otherwise agrees, the chief executive is not liable for damage caused by the chief executive to public utility plant on a State-controlled road if—

- (a) the chief executive had, before the damage was caused, asked for information under section 58(3) (Information by owner of public utility plant to chief executive) from the owner of the plant and—
  - (i) the owner had not, within a reasonable time, complied with the request; and
  - (ii) the damage was caused because of the failure to comply with the request; or
- (b) information supplied to the chief executive under section 58(3) does not define in adequate detail the location of the plant and the damage was caused because of the failure to define in adequate detail the location of the plant; or
- (c) the damage was caused because of the plant having been constructed, augmented, altered or maintained other than under the chief executive's requirements under this Division.

(2) If the chief executive incurs additional expense in carrying out road works on a State-controlled road because—

- (a) the owner of public utility plant had not supplied within a reasonable time information asked for by the chief executive under section 58(3); or
- (b) information supplied to the chief executive did not define in adequate detail the location of public utility plant; or
- (c) public utility plant had not been constructed, augmented, altered or maintained under the chief executive's requirements;

the owner of the plant is liable to pay to the chief executive the additional

expense.

(3) If the construction of road works by or for the chief executive requires the removal or replacement of public utility plant on a State-controlled road, the chief executive cannot be compelled to replace or reconstruct the plant in its previous location and form.

(4) If the plant mentioned in subsection (3) is replaced or reconstructed—

- (a) it must be done under the chief executive's requirements; and
- (b) it must be at the expense of the chief executive but the cost to the chief executive of replacement or reconstruction may be reduced by agreement between the chief executive and the owner of the plant after taking into account—
  - (i) the remaining life of the plant; and
  - (ii) the salvage or scrap value of the plant; and
  - (iii) additional expense that was avoidable because of faulty information supplied by the owner of the plant about the location of the plant; and
  - (iv) additional expense that was avoidable because of the plant not being constructed in accordance with the chief executive's requirements.

### **Chief executive and owner of public utility plant may share costs**

**60.** The chief executive may arrange with the owner of public utility plant (whether existing or proposed) for the sharing by the chief executive and the owner of the cost of all or any of—

- (a) acquisition of land associated with the plant; or
- (b) construction, augmentation, alteration or maintenance of the plant; or
- (c) construction of road works affected by the plant;

including all necessary preliminary costs associated with the acquisition, construction, augmentation, alteration or maintenance.

**Division not to apply to public utility plant constructed under the Electricity Act**

**61.** This Division does not apply to public utility plant constructed under the *Electricity Act 1976*.

**CHAPTER 6—GENERAL PROVISIONS****Recovery of amounts payable to the chief executive**

**62.** An amount payable by a person to the chief executive under this Act is a debt owing to the State and may be recovered by action against the person in a court of competent jurisdiction.

**Power to require information from local governments**

**63.(1)** The chief executive may, by written notice given to a local government, require that the local government give to the chief executive, or to a specified person, information on a particular issue relevant to the discharge of functions or the exercise of powers under this Act.

**(2)** The notice must specify a reasonable time within which the notice is to be complied with and may specify the way in which it is to be complied with.

**(3)** The local government must comply with the notice.

**(4)** However, the local government may appeal to the Minister against the notice and, if the local government appeals, the local government only has to comply with the notice if, and to the extent that, the Minister directs.

**Conduct of company directors, employees or agents**

**64.(1)** In this section—

“**engaging**” in conduct includes failing to engage in conduct;

“**representative**” means—

(a) in relation to a corporation—an executive officer, employee or

agent of the corporation; or

- (b) in relation to an individual—an employee or agent of the individual;

**“state of mind”** of a person includes—

- (a) the person’s knowledge, intention, opinion, belief or purpose; and
- (b) the person’s reasons for the intention, opinion, belief or purpose.

(2) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of a corporation about particular conduct, it is sufficient to show—

- (a) the conduct was engaged in by a representative of the corporation within the scope of the representative’s actual or apparent authority; and
- (b) the representative had the state of mind.

(3) Conduct engaged in on behalf of a corporation by a representative of the corporation within the scope of the representative’s actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the corporation unless the corporation establishes it took reasonable precautions and exercised proper diligence to avoid the conduct.

(4) If, in a proceeding for an offence against this Act, it is necessary to establish the state of mind of an individual about particular conduct, it is sufficient to show—

- (a) the conduct was engaged in by a representative of the individual within the scope of the representative’s actual or apparent authority; and
- (b) the representative had the state of mind.

(5) Conduct engaged in on behalf of an individual by a representative of the individual within the scope of the representative’s actual or apparent authority is taken, in a proceeding for an offence against this Act, to have been engaged in also by the individual unless the individual establishes the individual took reasonable precautions and exercised proper diligence to avoid the conduct.

**Disposal of fees, penalties etc.**

**65.(1)** Fees or other amounts received or recovered under this Act for the operations of a GOC are to be paid to the GOC.

**(2)** All other fees, penalties and other amounts received or recovered under this Act are to be paid to the Consolidated Fund.

**Appeals**

**66.(1)** A person whose interests are affected by a decision specified in Schedule 2 may appeal against the decision to the court specified in the Schedule opposite to the reference to the decision.

**(2)** A person who may appeal against or seek a review of a decision is entitled to receive a statement of reasons for the decision.

**(3)** An appeal lies under subsection (1) against a decision made by a delegate of the chief executive who is an officer or employee of the department only if the applicant has sought a review by the chief executive of the decision.

**(4)** Sections 17 to 23, and 24(3) and (4), of the *Transport Planning and Coordination Act 1994* apply to an appeal or review.

**Time for making appeals**

**67.(1)** An appeal by a person against a decision must be made before the end of 28 days after—

- (a) a document setting out the decision was given to the person; or
- (b) if the document does not set out a statement of reasons for the decision and the person requests a statement of reasons within 28 days after the document was given to the person—the person is given the statement of reasons.

**(2)** However, the court to which an appeal against a transport decision lies may extend the period for making an appeal.

**Procedure of Planning and Environment Court**

**68.(1)** The power to make rules of court under the *Local Government*

*(Planning and Environment) Act 1990* includes power to make rules of court about appeals by the Planning and Environment Court under this Act.

(2) The procedure for an appeal to the Planning and Environment Court is—

- (a) in accordance with the rules made under the *Local Government (Planning and Environment) Act 1990*; or
- (b) in the absence of relevant rules, as directed by the Court.

### **Regulations**

**69.(1)** The Governor in Council may make regulations for the purposes of this Act.

(2) A regulation may create offences and prescribe penalties for the offences of not more than 40 penalty units.

(3) In particular, regulations may be made for the matters specified in Schedule 1.

(4) A regulation may confer functions or powers on a local government or a State government body.

## **CHAPTER 7—SAVINGS AND TRANSITIONAL PROVISIONS AND AMENDMENTS OF OTHER ACTS**

### **PART 1—SAVINGS AND TRANSITIONAL PROVISIONS**

#### **Definitions**

**70.** In this Chapter—

“**Corporation**” means the corporation sole constituted by the *Urban Public Passenger Transport Act 1984*;

**State-controlled roads**

**71.(1)** A road or land that was, immediately before the commencement, a declared road under the *Transport Infrastructure (Roads) Act 1991* is a State-controlled road under this Act.

**(2)** Despite section 21(2) (Declaration of State-controlled roads), a declaration may be made under that section before the first transport infrastructure strategies have been developed.

**Access to and from State-controlled roads**

**72.(1)** A determination or notice under section 3.7 of the *Transport Infrastructure (Roads) Act 1991* that was in force immediately before the commencement continues in force as if it were a decision under section 49 (Management of access between individual properties and State-controlled roads) of this Act.

**(2)** A declaration under section 3.8 of the *Transport Infrastructure (Roads) Act 1991* that was in force immediately before the commencement continues in force as if it were a declaration under section 48 (Access-limited roads) of this Act.

**(3)** A consent given by the Corporation under section 3.12 of the *Transport Infrastructure (Roads) Act 1991* in force immediately before the commencement remains in force, but may be amended or revoked as if it were a decision by the chief executive under section 49(1) of this Act.

**Motorways**

**73.** A road that was, immediately before the commencement, a motorway under section 3.17 of the *Transport Infrastructure (Roads) Act 1991* continues to be a motorway as if it had been declared to be a motorway under section 23 (Declaration of motorways) of this Act.

**Notices to local governments**

**74.** If, immediately before the commencement, a notice given under section 2.12 of the *Transport Infrastructure (Roads) Act 1991* to a local government by the Corporation had not been complied with by the local government, the notice has effect as if it had been given by the chief

executive under section 63 (Power to require information from local governments) of this Act.

### **Arrangements with local governments and others**

**75.** An arrangement between the Corporation and a local government or other person that—

- (a) was in force immediately before the commencement; and
- (b) relates to a sharing of costs of a kind referred to in section 28 (Cost sharing arrangements);

continues in force as if it were an arrangement between the chief executive and the local government or other person under section 28.

### **Naturally occurring materials**

**76.** A permit granted by the Corporation under section 3.5(3) of the *Transport Infrastructure (Roads) Act 1991* and in force immediately before the commencement continues in force for the period specified in the permit but may be amended or revoked by the chief executive.

### **Approvals and determinations under s 3.6 of the Transport Infrastructure (Roads) Act 1991**

**77.(1)** An approval or a determination by the Corporation under section 3.6(4) of the *Transport Infrastructure (Roads) Act 1991* and in force immediately before the commencement is taken to be an approval or decision by the chief executive under section 43(3) (Removal of materials etc.) of this Act.

**(2)** A determination by the Corporation under section 3.6(5) of the *Transport Infrastructure (Roads) Act 1991* in force immediately before the commencement is taken to be a decision by the chief executive under section 42(1) (Temporary restrictions on use of State-controlled roads) of this Act.

**Works by local governments**

**78.(1)** An agreement between the Corporation and a local government under section 7.2(1) of the *Transport Infrastructure (Roads) Act 1991* in force immediately before the commencement is taken to be a contract between the chief executive and the local government under section 25(1) (Powers of chief executive for road works contracts etc.) of this Act.

**(2)** If an agreement mentioned in subsection (1) provides for the construction or maintenance of road transport infrastructure or for the supervision of the construction or maintenance, conditions decided by the Corporation for the construction, maintenance or supervision are taken, after the commencement, to be conditions decided by the chief executive.

**Construction and maintenance by others**

**79.** An approval of the Corporation under section 7.3(1) of the *Transport Infrastructure (Roads) Act 1991* in force immediately before the commencement continues in force as if it were an approval by the chief executive under section 29(1) (Prohibition on road works etc. on State-controlled roads) of this Act.

**Works joining State-controlled roads**

**80.** An approval of the Corporation in force under section 7.5(1) of the *Transport Infrastructure (Roads) Act 1991* immediately before the commencement continues in force as if it were an approval by the chief executive under section 38(1) (Impact of certain local government decisions on State-controlled roads) of this Act.

**Temporary occupation and use of land**

**81.(1)** If, immediately before the commencement, a person could exercise a power because of section 7.6(2) or (3) of the *Transport Infrastructure (Roads) Act 1991*, the person is taken to have been delegated a corresponding power under section 25 of the *Transport Planning and Coordination Act 1994*.

**(2)** A notice served by the Corporation under section 7.8(1) of the *Transport Infrastructure (Roads) Act 1991* before the commencement is

taken to be a notice given by the chief executive under section 32(1) (Notice of entry or permission to enter) of this Act.

(3) An entry, occupation or use of private land by the Corporation mentioned in section 7.6(1), 7.7 or 7.11(2) of the *Transport Infrastructure (Roads) Act 1991* in effect immediately before the commencement is taken to be an entry, occupation or use by the chief executive under the corresponding provision of this Act.

### **Ancillary works and encroachments**

**82.(1)** A requirement that was, immediately before the commencement, in force under section 7.12 of the *Transport Infrastructure (Roads) Act 1991* continues in force as if it were a determination under section 45 (Ancillary works and encroachments) of this Act.

(2) An approval that was, immediately before the commencement, in force under section 7.12(2) of the *Transport Infrastructure (Roads) Act 1991* continues in force as if it were an approval under section 45(2) of this Act.

### **Things done where chief executive now has power**

**83.** If—

- (a) the Corporation, a port authority or the Harbours Corporation of Queensland had started to exercise a power conferred on it under a provision repealed or amended by Schedule 3; and
- (b) the chief executive has a corresponding power under Part 3 of the *Transport Planning and Coordination Act 1994*;

the chief executive may complete the exercise of the power as if the chief executive had started to exercise it.

### **Continuation of contracts**

**84.** If—

- (a) a contract or agreement made by the Corporation with a person about the exercise of a power or the performance of a function conferred or imposed on the Corporation under a provision of the

*Transport Infrastructure Act 1994*

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*Transport Infrastructure (Roads) Act 1991* amended by this Act was in force immediately before the commencement of the amendment; and

- (b) a like power or function is conferred on the chief executive under this Act;

the contract or agreement has effect, on the commencement, as a contract or agreement between the chief executive for the State and the other person.

**Legal proceedings**

**85.** A legal proceeding—

- (a) for the exercise by the Corporation of a power or function under a provision of the *Transport Infrastructure (Roads) Act 1991* amended by Schedule 3; or
- (b) for the role of the Corporation as a highway authority;

that was pending immediately before the commencement of the amendment may be continued as if the proceeding had been begun by or brought against the chief executive for the State.

***Property vested in the Corporation***

**86.<sup>1</sup>** *Property that—*

- (a) *immediately before the commencement, was vested in the Corporation because of the Transport Infrastructure (Roads) Act 1991; or*
- (b) *was acquired by the Corporation for the purposes of that Act and was held by the Corporation immediately before the commencement; or*
- (c) *immediately before the commencement, was vested in the Corporation because of a provision of another Act that is amended by Schedule 3;*

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<sup>1</sup> This provision had not commenced on or before the reprint date.

*becomes vested in the State but may be dealt with by the chief executive for the State.*

### ***Land acquisitions and related transactions***

*87.2(1) Despite Schedule 3, the provisions amended by the Schedule, as in force immediately before the commencement of the amendment, continue to have effect to a land acquisition or related transaction, including a claim for compensation, that was begun before the commencement of the amendment.*

*(2) For dealing with the acquisition or transaction, a thing that could have been done by the Corporation under the provisions may be done by the chief executive.*

### **Delegations**

**88.(1)** If, immediately before the commencement, a person could exercise a power of the Minister, the chief executive or the Corporation under a delegation under the *Transport Infrastructure (Roads) Act 1991*, the person can continue to exercise the power as if it had been delegated to the person under the *Transport Planning and Coordination Act 1994*.

**(2)** This section does not prevent the revocation or amendment of a delegation.

### **Preparation of first implementation programs**

**89.** Despite the requirements in Chapter 4 to develop implementation programs each year, the first implementation programs need not be developed until after the first transport infrastructure strategies have been approved.

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<sup>2</sup> This provision had not commenced on or before the reprint date.

**PART 2—AMENDMENTS OF OTHER ACTS****Amendments of other Acts**

**90.** The Acts specified in Schedule 3 are amended as set out in the Schedule.

**SCHEDULE 1****SUBJECT MATTER FOR REGULATIONS**

section 69

- 1.** The conditions of use of motorways, including limitations on access or use, and removal of stationary vehicles.
- 2.** Regulation of traffic (including for safety purposes) during construction of road works.
- 3.** Regulation of animals on State-controlled roads.
- 4.** Camping on State-controlled roads or areas under the chief executive's control.
- 5.** Regulation of ancillary works and encroachments.
- 6.** Tolls payable through the use of roads and the collection of the tolls.
- 7.** Exemptions from regulations.
- 8.** Allowing the chief executive to approve forms to be used for the purposes of this Act, and the purposes for which the forms must be used.
- 9.** Fees, charges, allowances, royalties, costs or expenses to be paid.
- 10.** The operation by the chief executive of electronic and other devices for monitoring, recording or controlling the passage of vehicles or the flow of traffic on—
  - (a) State-controlled roads; or
  - (b) roads that are proposed to be State-controlled roads; or
  - (c) other roads with the agreement of the relevant local government.

**SCHEDULE 2****APPEALS**

section 66

<b>Section</b>	<b>Description of decision</b>	<b>Court</b>
29	Refusal to approve carrying out of proposed road works	Magistrates
	Refusal to approve action interfering with State-controlled road or its operation	Magistrates
	Imposition of conditions on approval	Magistrates
30	Decision of chief executive about amount of costs incurred	District or Magistrates
33	Decision of chief executive about amount of compensation	District or Magistrates
33	Decision not to extend time	District or Magistrates
34	Decision of chief executive not to contribute to fencing	Magistrates
38(1)	Refusal to approve subdivision, rezoning, development, road works or changes	Planning and Environment
38(3) and (5)	Imposition of conditions	Planning and Environment
39(1)	Refusal to approve erection of, alteration or operation of sign or device	Planning and Environment
39(3) and (5)	Imposition or inclusion of conditions	Planning and Environment
44	Decision of chief executive about cost of repair, replacement or reconstruction of damaged work	District or Magistrates

## SCHEDULE 2 (continued)

45	Refusal of chief executive to approve construction, maintenance, operation or conduct of ancillary work or encroachment	Magistrates
46(1)	Decision to cause ancillary works and encroachments to be altered, relocated, made safe or removed, or to direct that the conduct of ancillary works and encroachments be altered or stop	District or Magistrates
46(2)	Decision of chief executive about cost of alteration, making safe or removing ancillary work and encroachments	District or Magistrates
46(4)	Decision to alter, relocate, make safe or remove ancillary works and encroachments or that activities are to be altered or to stop	Magistrates
49	Decision about access between State-controlled road and particular adjacent land	Planning and Environment
51	Decision of chief executive about amount of cost of taking action	District or Magistrates
53	Decision of chief executive about amount of compensation	District or Magistrates
54(2)	Decision not to extend time for claim	District or Magistrates
56	Requirement by chief executive about public utility plant on State-controlled road	District
59	Decision of chief executive about amount of additional expense	District or Magistrates

If this Schedule indicates that an appeal may be made to a District Court or to a Magistrates Court, the appeal is to be made to a District Court if the amount involved exceeds \$40 000 and to a Magistrates Court in any other case.

**SCHEDULE 3****AMENDMENTS OF OTHER ACTS<sup>3</sup>**

section 90

***HARBOURS ACT 1955*****1. Section 62(1)—**

*omit ‘or, in the case of land granted in fee simple, take under the Acquisition of Land Act 1967,’.*

**2. Section 62(2)—**

*omit.*

***STATE TRANSPORT (PEOPLE–MOVERS) ACT 1989*****1. Sections 6, 9, 10, 11 and 12—**

*omit.*

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<sup>3</sup> Certain provisions of this Schedule had not commenced on or before the reprint date. Provisions of the Schedule that had commenced have been omitted under the *Reprints Act 1992*, section 40.

SCHEDULE 3 (continued)

***TRANSPORT INFRASTRUCTURE (ROADS) ACT 1991***

***5. Part 5—***

*omit.*

***URBAN PUBLIC PASSENGER TRANSPORT ACT 1984***

***1. Sections 23 to 27—***

*omit.*

**ENDNOTES****1 Index to Endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Transport Infrastructure Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

**3 List of legislation****Transport Infrastructure Act 1994 No. 8**

date of assent 7 March 1994

ss 1–2 commenced on date of assent

ss 86, 87; Sch 3 amendments of the Harbours Act 1955, the State Transport (People-movers) Act 1984 and the Urban Public Passenger Transport Act 1984; Sch 3 amendment 5 of the Transport Infrastructure (Roads) Act 1991

not yet proclaimed into force

remaining provisions commenced 15 April 1994 (1994 SL No. 128)

## 4 List of annotations

### Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

### SCHEDULE 3—AMENDMENTS OF OTHER ACTS

amd (see RA s 40)