

Queensland



# TRANSPORT PLANNING AND COORDINATION ACT 1994

**Reprinted as in force on 7 July 1995  
(includes amendments up to Act No. 32 of 1995)**

**Reprint No. 3**

**This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy**

# Information about this reprint

This Act is reprinted as at 7 July 1995. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use standard punctuation consistent with current drafting practice (s 27)
- use expressions consistent with current drafting practice (s 29)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit provisions that are no longer required (ss 37 and 39).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A Table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including Table of obsolete and redundant provisions**
- **editorial changes made in earlier reprints.**

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**TRANSPORT PLANNING AND  
COORDINATION ACT 1994**

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# TRANSPORT PLANNING AND COORDINATION ACT 1994

[as amended by all amendments that commenced on or before 7 July 1995]

**An Act about the planning and coordination of transport, and other matters for which the Minister is responsible**

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Transport Planning and Coordination Act 1994*.

### Objectives

3. The objectives of this Act are, within the government's overall policy agenda, to improve—

- (a) the economic, trade and regional development performance of Queensland; and
- (b) the quality of life of Queenslanders;

by achieving overall transport effectiveness and efficiency through strategic planning and management of transport resources.

### Definitions

4. In this Act—

“**transport Act**” means an Act administered by the Minister, and includes this Act.

“**transport decision**” means a decision under a transport Act.

**“transport GOC”** means a GOC, or a candidate GOC (within the meaning of the *Government Owned Corporations Act 1993*), whose functions relate mainly to transport.

**“transport land”** means land that—

- (a) has been acquired for transport purposes or for an incidental or complementary purpose; and
- (b) is required for—
  - (i) the operations of a transport GOC; or
  - (ii) road transport infrastructure to which a road franchise agreement under the *Transport Infrastructure Act 1994*, chapter 5, part 6<sup>1</sup> applies; or
  - (iii) the operations of a person who is a railway manager under the *Transport Infrastructure Act 1994*, chapter 6.<sup>2</sup>

**“transport purpose”** includes any purpose for which the Minister is responsible.

## **PART 2—TRANSPORT COORDINATION PLAN**

### **Development of transport coordination plan**

**5.(1)** The chief executive must from time to time develop for the Minister’s approval a transport coordination plan to provide a framework for strategic planning and management of transport resources in Queensland in accordance with the objectives of this Act.

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

**(3)** A transport coordination plan applies for the period specified in the plan, but the chief executive may, if it is appropriate in the circumstances, develop a new transport coordination plan for the Minister’s approval even

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<sup>1</sup> Chapter 5 (Road transport infrastructure), part 6 (Franchised roads)

<sup>2</sup> Chapter 6 (Rail transport infrastructure)

though the period has not ended.

(4) The Minister may, at any time, direct the chief executive to prepare a new transport coordination plan for the Minister's approval or to amend the current transport coordination plan in the way the Minister directs.

(5) The Minister may approve a transport coordination plan that is submitted for approval or require the chief executive to amend the plan in the way the Minister directs.

### **Contents of transport coordination plan**

**6.(1)** A transport coordination plan must include—

- (a) a statement of the specific objectives sought to be achieved by the plan; and
- (b) criteria for deciding priorities for spending on transport; and
- (c) appropriate performance indicators for deciding whether, and to what extent, the objectives of the plan have been achieved.

**(2)** A transport coordination plan must also provide—

- (a) an adequate framework for the coordinated planning for transport; and
- (b) a way of achieving effective and efficient use of land for transport purposes.

### **Transport coordination plan to be consistent with overall strategic planning for Government etc.**

**7.** Each transport coordination plan must—

- (a) be consistent with the Government's overall strategic planning for Queensland; and
- (b) take into account—
  - (i) national transport strategies; and
  - (ii) regional transport and other development strategies; and
  - (iii) local government interests; and

- (iv) the government's land use planning; and
- (v) the government's environmental policies.

### **Tabling of transport coordination plan**

8. The Minister must cause a copy of each transport coordination plan, and of each amendment of a transport coordination plan, approved by the Minister, to be tabled in the Legislative Assembly.

### **Effect of failure to comply with pt 2**

**8A.(1)** It is Parliament's intention that this part be complied with.

**(2)** However—

- (a) this part is directory only and does not create rights or impose legally enforceable obligations on the State, Minister, chief executive or anyone else; and
- (b) failure to comply with this part does not affect the validity of anything done or not done under this Act or another Act.

**(3)** In addition, a decision made, or appearing to be made, under this part—

- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* (whether by the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

**(4)** In this section—

**“decision”** includes—

- (a) conduct engaged in to make a decision; and
- (b) conduct related to making a decision; and
- (c) failure to make a decision.

## **PART 3—FUNCTIONS, POWERS AND PROPERTY**

### **Functions of chief executive not limited by implication**

**8B.(1)** No transport Act limits, by implication, the chief executive's functions under another Act or law.

*Examples—*

This Act (and the chief executive's functions under it) do not limit, by implication, the following functions under other Acts or laws—

1. The chief executive's responsibilities as chief executive under the *Public Service Management and Employment Act 1988*, especially section 12.

2. The chief executive's functions as accountable officer under the *Financial Administration and Audit Act 1977*, especially section 36.

3. The chief executive's functions, at common law and under statute, as the person in control, under the Minister, of a department of government of the State.

4. The chief executive's functions under the *Transport Infrastructure Act 1994*, including, for example, the chief executive's road transport infrastructure functions under section 21 of that Act.

**(2)** This section is enacted to remove any doubt about the chief executive's functions.

**(3)** In this section—

“**function**” includes responsibility.

“**law**” includes any common law rule.

### **General powers of chief executive**

**9.(1)** The chief executive has, under the Minister and as agent of the State, all the powers of the State that are necessary or desirable for performing the chief executive's functions.

**(2)** Anything done in the name of, or for, the State by the chief executive in performing the chief executive's functions is taken to have been done for, and binds, the State.

**(3)** Without limiting subsection (1), the chief executive may, for example, in performing the chief executive's functions—

(a) enter into arrangements, agreements, contracts and deeds; and

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- (b) acquire, hold, deal with and dispose of property; and
- (c) appoint agents and attorneys; and
- (d) charge, and fix terms, for goods, services, facilities and information supplied; and
- (e) seal any document; and
- (f) do other things necessary or convenient to be done for, or in connection with, the chief executive's functions.

(4) Without limiting subsection (1), the chief executive has the powers given to the chief executive under this or another Act or at common law.

(5) No transport Act limits, by implication, the powers that the chief executive has under another Act or law, and, in particular, no transport Act prevents, by implication—

- (a) the chief executive doing anything in trade or commerce; or
- (b) the chief executive doing anything outside Queensland, including outside Australia.

(6) However, the chief executive's powers are subject to any restriction expressly imposed on the chief executive under this or another Act.

(7) This section is enacted to remove any doubt about the chief executive's powers.

(8) In this section—

**“function”** includes responsibility.

**“law”** includes any common law rule.

**“power”** includes legal capacity.

**“restriction”** includes prohibition.

**“trade or commerce”** includes—

- (a) a business or professional activity; and
- (b) anything else done for gain or reward.

### **General powers regarding property**

**10.(1)** The chief executive may, for the State, acquire, hold, dispose of or

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otherwise deal with property for the purposes of transport or for an incidental purpose.

(2) The power conferred by subsection (1) includes power to acquire land by resumption in accordance with this part if the land is, in the chief executive's opinion, required for the purposes of transport or for an incidental purpose.

(3) In particular, the chief executive may, for the State, acquire property for any of the following purposes—

- (a) the facilitation of transport infrastructure;
- (b) the supply or improvement of facilities for users of transport infrastructure;
- (c) the amelioration of negative environmental effects associated with transport infrastructure;
- (d) the construction or relocation of ancillary works and encroachments and public utility plant within the meaning of the *Transport Infrastructure Act 1994*, chapter 5.

(4) In acquiring land under this part, the chief executive must have regard to any relevant provisions of—

- (a) the transport coordination plan; and
- (b) transport infrastructure strategies in force under the *Transport Infrastructure Act 1994*.

(5) The chief executive may have regard to any other matters the chief executive considers relevant.

(6) The power to acquire land under this part includes power to acquire land or an easement in land beneath the surface without acquiring rights in the surface.

(7) Subsection (6) applies to the acquisition of an easement even though the easement—

- (a) is not attached to, or used and enjoyed with, a dominant tenement;  
or
- (b) must not be used and enjoyed in common with any other person.

(8) The chief executive is a constructing authority within the meaning of

the *Acquisition of Land Act 1967*.

(9) The chief executive may, as a constructing authority under the *Acquisition of Land Act 1967*, obtain or resume a lease of State land or some other interest in State land that is less than freehold.

(10) If an acquisition of land by the chief executive would sever land of the owner from other land of the owner, the chief executive may, with the Minister's approval, acquire by agreement or resumption the whole or a part of the severed area.

(11) Land acquired under this part may be described in the instrument acquiring the land in any way sufficient to identify the land.

### **Taking of land by the chief executive for future transport purposes**

11. An acquisition of land that will be required at some future time for a purpose for which land may be taken under this Act by the chief executive is an acquisition of land for the purposes of this Act even if the time when the land will be required is indefinite or presently cannot be worked out.

### **Power of chief executive to lease, sell or otherwise dispose of land to transport GOC etc.**

12.(1) The chief executive may, for the State, lease, sell or otherwise dispose of transport land to a transport GOC, a franchisee or a railway manager.

(2) Subsection (1) applies despite the *Acquisition of Land Act 1967*.

### **No compensation for works after notice of intention to resume or agreement to acquire**

13. In deciding the amount of compensation payable to a person for land resumed under this part, regard must not be had to the value of works carried out on the land at a time after a notice of intention to resume the land has been sent to a person entitled to compensation for the land or agreement to acquire the land has been reached.

## **PART 4—APPEALS**

### **Regulation may provide for appeals**

**15.(1)** The Governor in Council may make a regulation under a transport Act to provide that—

- (a) a person whose interests are affected by a transport decision under the Act specified in the regulation may appeal against the decision; or
- (b) someone else specified in the regulation may appeal against the decision.

**(2)** The regulation must specify whether the appeal lies to a District Court or a Magistrates Court.

**(3)** The regulation may provide that a person who may appeal against or seek internal review of a decision is entitled to receive a statement of reasons for the decision.

### **Time for making appeals**

**16.(1)** An appeal by a person against a transport decision must be made before the end of 28 days after a document setting out the decision was given to the person.

**(2)** However, a regulation may specify a different period for particular transport decisions.

**(3)** If a statement of reasons is required for a decision, a regulation may specify that the period for making an appeal begins when the applicant is given the statement of reasons.

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

### **Starting appeals**

**17.(1)** An appeal must be started by—

- (a) filing a written notice of appeal with the court; and

(b) serving a copy of the notice on the chief executive.

(2) An appeal to a Magistrates Court or District Court may be made to the Magistrates Court or District Court nearest the place where the applicant resides or carries on business.

### **Stay of operation of decisions**

**18.(1)** A court to which an appeal against a transport decision lies may grant a stay of the operation of the decision to secure the effectiveness of the appeal.

(2) A stay—

- (a) may be granted on the conditions that the court considers appropriate; and
- (b) applies for the period that the court specifies, but not extending beyond the time when the court makes a decision on the appeal; and
- (c) may be revoked or amended by the court.

(3) Apart from a stay of the operation of a decision, appeal does not affect the operation or carrying out of the decision.

### **Powers of court on appeal**

**19.(1)** In deciding an appeal, a court—

- (a) has the same powers as the decision maker; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice; and
- (d) may hear the appeal in court or in chambers.

(2) An appeal is by way of rehearing.

(3) The court may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision that the court considers appropriate; or

- (c) set aside the decision and return the issue to the decision maker with the directions that the court considers appropriate.

### **Effect of decision of court on appeal**

**20.** If a court substitutes another decision, the substituted decision is, for the relevant provision of the transport enactment, taken to be that of the decision maker.

### **Procedure of District Court**

**21.(1)** The power to make rules of court under the *District Courts Act 1967* includes power to make rules of court for appeals to District Courts under this part.

**(2)** The procedure for an appeal to a District Court under this part is—

- (a) in accordance with rules made under the *District Courts Act 1967*;  
or
- (b) in the absence of relevant rules, as directed by a judge of the court.

**(3)** An appeal to the Court of Appeal from a decision of the District Court may be made only on a question of law.

### **Assessors**

**22.** If the judge hearing an appeal in a District Court is of the opinion that the appeal involves a question of special knowledge and skill, the judge may appoint 1 or more assessors to help the judge in deciding the appeal.

### **Procedure of Magistrates Court**

**23.(1)** The power to make rules of court under the *Magistrates Courts Act 1921* includes power to make rules of court for appeals to Magistrates Courts under this part.

**(2)** The procedure for appeal to a Magistrates Court under this part is—

- (a) in accordance with the rules made under the *Magistrates Courts Act 1921*; or

(b) in the absence of relevant rules, as directed by a magistrate.

(3) An appeal to the District Court from a decision of the Magistrates Court may be made only on a question of law.

### **Internal review of decisions**

**24.(1)** A regulation providing for an appeal against a transport decision may provide that an appeal lies only if the applicant has sought a review by the chief executive of the decision.

(2) An application for internal review of 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 regulation so specifies, the applicant is given the statement of reasons for the decision.

(3) A decision on an application for internal review must be made within 28 days after the request is made.

(4) However, if the decision is not made within the period of 28 days, the chief executive is taken to have made a decision at the end of the period confirming the original decision.

(5) In making an appeal to a court, the decision subject to appeal is the decision on review and not the original decision.

## **PART 5—GENERAL**

### **Delegation by the Minister or the chief executive**

**25.(1)** The Minister or the chief executive may delegate to a person a power of the Minister or the chief executive under this Act or another Act.

(2) A power may be subdelegated if the delegation allows the subdelegation of the power.

**Regulations**

**26.** The Governor in Council may make regulations for the purposes of this Act.

**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). Accordingly, this reprint includes all amendments that commenced operation on or before 7 July 1995. Future amendments of the Transport Planning and Coordination Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[x]	=	Reprint No. [x]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

### 4 Table of earlier reprints

Reprint No.	Amendments included	Reprint date
1	none	27 April 1994
2	to Act No. 32 of 1994	19 July 1994

### 5 List of legislation

#### **Transport Planning and Coordination Act 1994 No. 2**

date of assent 7 March 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 15 April 1994 (1994 SL No. 129)

as amended by—

#### **Transport Infrastructure Amendment Act 1994 No. 32 ss 1–2, 14 sch 1**

date of assent 30 June 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1994 (see s 2)

#### **Transport Operations (Road Use Management) Act 1995 No. 9 ss 1–2, s 92 sch 1**

date of assent 5 April 1995

commenced on date of assent (see s 2(1))

**Transport Infrastructure Amendment (Rail) Act 1995 No. 32 pt 1, s 23 sch**

date of assent 14 June 1995

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1995 (see s 2(2), 1995 SL No. 162 s 2(3))

**6 List of annotations****Long title** amd 1994 No. 32 s 14 sch 1**Commencement****s 2** om R3 (see RA s 37)**Definitions**

**s 4** “chief executive” om R3 (see RA s 39)  
 “transport Act” ins 1994 No. 32 s 14 sch 1  
 “transport decision” ins 1994 No. 32 s 14 sch 1  
 “transport GOC” ins 1995 No. 32 s 23 sch  
 “transport land” ins 1995 No. 32 s 23 sch  
 “transport purpose” ins 1994 No. 32 s 14 sch 1

**Effect of failure to comply with pt 2**

**s 8A** prev s 8A renum as s 8B 1995 No. 32 s 23 sch  
 pres s 8A ins 1995 No. 9 s 92 sch

**PART 3—FUNCTIONS, POWERS AND PROPERTY****pt hdg** sub 1994 No. 32 s 14 sch 1**Functions of chief executive not limited by implication**

**s 8B** pres s 8B (prev s 8A) ins 1994 No. 32 s 14 sch 1  
 renum 1995 No. 32 s 23 sch

**General powers of chief executive****s 9** sub 1994 No. 32 s 14 sch 1**General powers regarding property****s 10** amd 1995 No. 32 s 23 sch**Power of chief executive to lease, sell or otherwise dispose of land to transport GOC etc.**

**prov hdg** amd 1995 No. 32 s 23 sch  
**s 12** amd 1994 No. 32 s 14 sch 1  
 sub 1995 No. 32 s 23 sch

**Definitions****s 14** om 1994 No. 32 s 14 sch 1

**7 Table of obsolete and redundant provisions**TABLE OF OBSOLETE AND REDUNDANT PROVISIONS  
under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
def “chief executive”	Acts Interpretation Act 1954, s 36 (def “chief executive”