

Queensland



**TRANSPORT (BUSWAY AND  
LIGHT RAIL) AMENDMENT  
ACT 2000**

**Act No. 40 of 2000**



Queensland



**TRANSPORT (BUSWAY AND LIGHT RAIL) AMENDMENT ACT 2000**

**TABLE OF PROVISIONS**

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title .....	10
2	Commencement .....	10
<b>PART 2—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994</b>		
3	Act amended in pt 2 .....	10
4	Amendment of s 2 (Objectives of this Act) .....	10
5	Amendment of s 22 (Definitions for ch 5) .....	11
6	Amendment of s 75 (Scope of chapter) .....	11
7	Amendment of s 84 (Granting accreditation) .....	12
8	Amendment of s 88 (Amending accreditation conditions on application) .....	12
9	Amendment of s 89 (Amending accreditation conditions without application) .....	12
10	Amendment of s 90 (Suspending or cancelling accreditation) .....	13
11	Amendment of s 91 (Immediate suspension of accreditation) .....	13
12	Insertion of new s 161A .....	13
	161A Port services function .....	13
13	Insertion of new chs 7A—7C .....	14
<b>CHAPTER 7A—BUSWAYS AND BUSWAY TRANSPORT INFRASTRUCTURE</b>		
<b>PART 1—PRELIMINARY</b>		
180A	Definition for ch 7A .....	15
180B	Ways of achieving busway objectives .....	15

**PART 2—CHIEF EXECUTIVE’S FUNCTIONS AND POWERS**

180C	Functions .....	16
180D	Authority to enter or temporarily occupy or use land .....	16
180E	When land may be entered, occupied or used .....	17
180F	Compensation .....	18

**PART 3—ESTABLISHMENT OF BUSWAYS**

180G	Definition for pt 3 .....	19
180H	Declaration of land as busway land .....	19
180I	Effect on land of busway declaration .....	19
180J	Development of busway and busway transport infrastructure .....	20

**PART 4—MANAGEMENT OF BUSWAY LAND AND  
BUSWAY TRANSPORT INFRASTRUCTURE**

*Division 1—Transport infrastructure interaction*

180K	Altering road levels by a local government .....	20
180L	Permitted construction by local government of roads over or under busway land .....	21
180M	Designation of busway land for use as road under local government control .....	22
180N	Designation of busway land for use as State-controlled road .....	23
180O	No presumption of dedication of road .....	23

*Division 2—Interfering with busway transport infrastructure*

180P	Interfering with busway transport infrastructure .....	24
180Q	Rectifying unauthorised interference or works .....	25

*Division 3—Public utility plant*

180R	Definition for div 3 .....	25
180S	Retention of ownership of public utility plant .....	26
180T	Public utility plant on busway land .....	26
180U	Chief executive must give provider information .....	27
180V	Public utility provider to consult with chief executive before replacing public utility plant .....	27
180W	Public utility provider to comply with chief executive’s agreement .....	27
180X	Chief executive may require public utility provider to alter position of public utility plant .....	28

180Y	Information by public utility provider to chief executive . . . . .	28
180Z	Liability for damage caused by failure to comply with request for information . . . . .	28
180ZA	Liability for damage caused by failure to give enough detail about location of public utility plant .	29
180ZB	Liability for damage caused because of failure to comply with chief executive’s requirements .	29
180ZC	Liability of public utility provider to pay additional expenses incurred by chief executive . . . . .	30
180ZD	Replacement or reconstruction of public utility plant . . . . .	30
<i>Division 4—Use of busway land</i>		
180ZE	Trespass on busway land . . . . .	31
<i>Division 5—Compensation entitlements</i>		
180ZF	Definitions for div 5 . . . . .	32
180ZG	No entitlement to compensation for particular matters . . . . .	32
180ZH	Compensation for reduced market value of interest in land . . . . .	33
180ZI	Compensation of person in actual occupation for interference with enjoyment of land . . . . .	34
180ZJ	Chief executive may supply or contribute to new access arrangements . . . . .	35
180ZK	Obtaining compensation . . . . .	36
<b>CHAPTER 7B—LIGHT RAIL AND LIGHT RAIL TRANSPORT INFRASTRUCTURE</b>		
<b>PART 1—PRELIMINARY</b>		
180ZL	Definition for ch 7B . . . . .	37
180ZM	Ways of achieving light rail objectives . . . . .	37
<b>PART 2—CHIEF EXECUTIVE’S FUNCTIONS AND POWERS</b>		
180ZN	Functions . . . . .	38
180ZO	Authority to enter or temporarily occupy or use land . . . . .	38
180ZP	When land may be entered, occupied or used . . . . .	39
180ZQ	Compensation . . . . .	40

PART 3—ESTABLISHMENT OF LIGHT RAIL

180ZR Definition for pt 3 .....	41
180ZS Declaration of land as light rail land .....	41
180ZT Effect on land of light rail declaration .....	42
180ZU Sublease of lease of light rail land .....	42
180ZV Development of light rail and light rail transport infrastructure .....	44

PART 4—MANAGEMENT OF LIGHT RAIL LAND AND LIGHT  
RAIL TRANSPORT INFRASTRUCTURE

*Division 1—Transport infrastructure interaction*

180ZW Altering road levels by a local government .....	44
180ZX Permitted construction by local government of roads over or under light rail land .....	45
180ZY Designation of light rail land for use as road under local government control .....	46
180ZZ Designation of light rail land for use as State-controlled road .....	47
180ZZA No presumption of dedication of road .....	48

*Division 2—Interfering with light rail transport infrastructure*

180ZZB Interfering with light rail transport infrastructure .....	48
180ZZC Rectifying unauthorised interference or works .....	49

*Division 3—Public utility plant*

180ZZD Definitions for div 3 .....	50
180ZZE Retention of ownership of public utility plant .....	51
180ZZF Public utility plant on light rail land .....	51
180ZZG Chief executive must give provider information .....	52
180ZZH Public utility provider to consult with chief executive before replacing public utility plant .....	52
180ZZI Public utility provider to comply with light rail authority's agreement .....	52
180ZZJ Chief executive may require public	

---

utility provider to alter position of public utility plant . . . . .	53
180ZZK Information by public utility provider to chief executive . . . . .	54
180ZZL Liability for damage caused by failure to comply with request for information . . . . .	54
180ZZM Liability for damage caused by failure to give enough detail about location of public utility plant . . . . .	54
180ZZN Liability for damage caused because of failure to comply with light rail authority’s requirements . . . . .	55
180ZZO Liability of public utility provider to pay additional expenses incurred by light rail authority . . . . .	55
180ZZP Replacement or reconstruction of public utility plant . . . . .	56
<i>Division 4—Use of light rail land</i>	
180ZZQ Trespass on light rail land . . . . .	56
<i>Division 5—Compensation entitlements</i>	
180ZZR Definitions for div 5 . . . . .	57
180ZZS No entitlement to compensation for particular matters . . . . .	58
180ZZT Compensation for reduced market value of interest in land . . . . .	59
180ZZU Compensation of person in actual occupation for interference with enjoyment of land . . . . .	60
180ZZV Chief executive may supply or contribute to new access arrangements . . . . .	61
180ZZW Obtaining compensation . . . . .	61
<b>PART 5—ACCREDITATION PROVISIONS FOR LIGHT RAIL</b>	
180ZZX Reference to light rail in pt 5 . . . . .	62
180ZZY Accreditation of managers and operators . . . . .	63
180ZZZ Applications for accreditation . . . . .	63
180ZZZA Additional information for applications . . . . .	63
180ZZZB Giving accreditation . . . . .	63
180ZZZC Annual levy . . . . .	66
180ZZZD Accreditation conditions . . . . .	66

180ZZZE Requiring accreditation conditions to be complied with . . . . . 67

180ZZZF Accreditation period . . . . . 67

180ZZZG Amending accreditation conditions on application . . . . . 67

180ZZZH Amending accreditation conditions without application . . . . . 68

180ZZZI Suspending or cancelling accreditation . . . . . 69

180ZZZJ Immediate suspension of accreditation . . . . . 70

180ZZZK Limited suspension of accreditation . . . . . 71

180ZZZL Surrender of accreditation . . . . . 71

180ZZZM Accreditation for proposed light rail . . . . . 71

PART 6—LIGHT RAIL INCIDENTS

180ZZZN Application of ch 6, pt 6 and other provisions . . . . . 72

CHAPTER 7C—INVESTIGATING POTENTIAL BUSWAY OR LIGHT RAIL

180ZZZO Purpose of ch 7C . . . . . 73

180ZZZP Definitions for ch 7C . . . . . 73

180ZZZQ How to apply for investigator’s authority . . . . . 74

180ZZZR Additional information about application . . . . . 75

180ZZZS Giving investigator’s authority . . . . . 75

180ZZZT Investigator’s authority . . . . . 75

180ZZZU What investigator must do before land is entered for the first time . . . . . 77

180ZZZV Investigator to issue associated person with identification . . . . . 78

180ZZZW Pretending to be an investigator or associated person . . . . . 79

180ZZZX Investigator to take care in acting under investigator’s authority . . . . . 79

180ZZZY Rectification of damage by investigator . . . . . 79

180ZZZZ Compensation payable by investigator . . . . . 80

180ZZZZA Release of bond or security deposit . . . . . 80

180ZZZZB Use of bond or security deposit to



	repair or rectify . . . . .	81
14	Amendment of s 181A (Meaning of “miscellaneous transport infrastructure”) . . . . .	82
15	Insertion of new s 200A . . . . .	82
	200A Numbering and renumbering of Act . . . . .	82
16	Amendment of s 215 (Boundary identification etc.) . . . . .	82
17	Amendment of sch 1 (Subject matter for regulations) . . . . .	82
18	Amendment of sch 2 (Appeals) . . . . .	83
19	Amendment of sch 3 (Dictionary) . . . . .	84

**PART 3—AMENDMENT OF TRANSPORT OPERATIONS  
(PASSENGER TRANSPORT) ACT 1994**

20	Act amended in pt 3 . . . . .	92
21	Amendment of ch 11, pt 2 hdg . . . . .	92
22	Amendment of s 116 (Appointment of authorised persons for railways) . . .	93
23	Amendment of s 117 (Identity cards) . . . . .	93
24	Amendment of s 118 (Producing or displaying authorised person’s identity card) . . . . .	94
25	Amendment of s 119 (Protection from liability) . . . . .	94
26	Omission of s 136 (Impersonation of authorised person) . . . . .	95
27	Insertion of new pt hdg . . . . .	95
28	Insertion of new ch 12, pt 2 and new pt hdg . . . . .	95

**PART 2—AUTHORISATIONS FOR COMPETITION LEGISLATION**

*Division 1—Interpretation*

	154B Definitions for pt 2 . . . . .	95
	154C Meaning of “fare provision” . . . . .	97
	154D Meaning of “identified provision” . . . . .	97
	154E Meaning of “management entity provision” . . . . .	98
	154F Meaning of “service entity provision” . . . . .	99
	154G Meaning of “State influenced entity” . . . . .	99
	154H References to public passenger services in pt 2 . . . . .	100
	154I Extended meanings of certain expressions in pt 2 . . . . .	100

*Division 2—Authorisations*

	154J Authorisations for coordination and integration of public	
--	--	--

	passenger services . . . . .	101
154K	Provisions limiting application of authorisations . . . . .	102
154L	Provisions supporting application of authorisations . . . . .	103
	<b>PART 3—REGULATION-MAKING POWER’.</b>	
29	Amendment of s 155 (Regulations) . . . . .	104
30	Amendment of sch 3 (Dictionary) . . . . .	104
	<b>PART 4—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995</b>	
31	Act amended in pt 4 . . . . .	105
32	Amendment of s 171 (Regulation-making power) . . . . .	105
	<b>PART 5—AMENDMENT OF TRANSPORT PLANNING AND COORDINATION ACT 1994</b>	
33	Act amended in pt 5 . . . . .	106
34	Amendment of s 3 (Definitions) . . . . .	106
35	Amendment of s 23 (Functions of chief executive not limited by implication) . . . . .	107
36	Amendment of s 25 (General powers regarding property) . . . . .	107
37	Insertion of new s 26A . . . . .	107
	26A Changing requirement for transport land . . . . .	107
38	Amendment of s 27 (Power of chief executive to lease, sell or otherwise dispose of land to transport GOC etc.) . . . . .	108
39	Insertion of new pt 4A . . . . .	108
	<b>PART 4A—SPECIAL PROVISIONS FOR BUSWAYS</b>	
28A	Definitions for pt 4A . . . . .	109
28B	Busway land acquisition . . . . .	110
28C	Construction contracts . . . . .	111

Queensland



**Transport (Busway and Light Rail)  
Amendment Act 2000**

**Act No. 40 of 2000**

---

**An Act to amend Acts administered by the Minister for Transport  
and Minister for Main Roads**

*[Assented to 13 October 2000]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

**1.** This Act may be cited as the *Transport (Busway and Light Rail) Amendment Act 2000*.

### **Commencement**

**2.** This Act, other than section 39, commences on a day to be fixed by proclamation.

## **PART 2—AMENDMENT OF TRANSPORT INFRASTRUCTURE ACT 1994**

### **Act amended in pt 2**

**3.** This part amends the *Transport Infrastructure Act 1994*.

### **Amendment of s 2 (Objectives of this Act)**

**4.** Section 2(2)—

*insert—*

‘(h) for busways and light rail—to establish a regime for each that—

- (i) contributes to overall transport effectiveness and efficiency;  
and
- (ii) provides for safely constructed, managed and operated  
infrastructure; and

- (iii) is responsive to community needs; and
- (iv) offers an appealing alternative to private transport in a way that takes into account overall environmental, economic and social influences of transport; and
- (v) addresses the challenges of future growth; and
- (vi) provides busway and light rail transport infrastructure and passenger services at a reasonable cost to the community and government; and
- (vii) results in minimal interference with access to and from the road network, but provides for reasonable compensation for interference; and
- (viii) encourages the facilitation and use of public transport; and
- (ix) gives priority to public transport over private vehicles; and
- (i) for light rail—to establish a regime that provides for—
  - (i) flexibility in the choice between private and public construction and management; and
  - (ii) land tenure arrangements allowing private management to be established on a sound financial basis.’.

### **Amendment of s 22 (Definitions for ch 5)**

**5.** Section 22, definitions “**plant**” and “**public utility plant**”—  
*omit.*

### **Amendment of s 75 (Scope of chapter)**

**6.** Section 75(2)(f)—  
*omit, insert—*

‘(f) light rail or light rail transport infrastructure; or’.

---

**Amendment of s 84 (Granting accreditation)**

**7.(1)** Section 84(6)(c)(iii) and (7)(c)—

*omit.*

**(2)** Section 84—

*insert—*

‘**(8)** Written notice of a decision given under subsection (6) or (7) must be accompanied by an information notice for the decision.’.

**Amendment of s 88 (Amending accreditation conditions on application)**

**8.(1)** Section 88(5)(c)—

*omit.*

**(2)** Section 88(6)—

*renumber* as section 88(7).

**(3)** Section 88—

*insert—*

‘**(6)** The written notice must be accompanied by an information notice for the decision.’.

**Amendment of s 89 (Amending accreditation conditions without application)**

**9.(1)** Section 89(5)(c)—

*omit.*

**(2)** Section 89(7), ‘subsection (6)’—

*omit, insert—*

‘subsection (7)’.

**(3)** Section 89(6) and (7)—

*renumber* as section 89(7) and (8).

(4) Section 89—

*insert—*

‘(6) If subsection (5) applies, written notice of the decision given under subsections (4) and (5) must be accompanied by an information notice for the decision.’.

### **Amendment of s 90 (Suspending or cancelling accreditation)**

10.(1) Section 90(5), from ‘state—’

*omit, insert—*

‘state the reason for the decision.’.

(2) Section 90(7)—

*omit, insert—*

‘(7) The notice must state the reason for the decision.

‘(8) Written notice of a decision given under subsections (4) and (5) or (6) and (7) must be accompanied by an information notice for the decision.’.

### **Amendment of s 91 (Immediate suspension of accreditation)**

11. Section 91(3)—

*omit, insert—*

‘(3) The notice must state the reason for the decision and must be accompanied by an information notice for the decision.’.

### **Insertion of new s 161A**

12. After section 161—

*insert—*

#### **‘Port services function**

‘161A.(1) A port authority has, in addition to its functions under section 161, the function of providing port services and ancillary services—

- 
- (a) whether in or outside its port; and
  - (b) whether in or outside Australia; and
  - (c) whether for another port authority or for someone else.

‘(2) A port authority that is a GOC is taken to have had the function mentioned in subsection (1) from when it became a GOC.

‘(3) In this section—

**“ancillary services”** means services ancillary to the provision of port services, including services appropriate for complementing or enhancing the provision of port services.

**“port”** includes airport.

**“port services”** means any of the following—

- (a) services relating to the establishment, operation or administration of ports;
- (b) dredging services;
- (c) services relating to the reclamation of land;
- (d) pilotage services;
- (e) consultancy services about any of the services mentioned in paragraphs (a) to (d).’

### **Insertion of new chs 7A—7C**

**13.** After section 180—

*insert—*



## **‘CHAPTER 7A—BUSWAYS AND BUSWAY TRANSPORT INFRASTRUCTURE**

### **‘PART 1—PRELIMINARY**

#### **‘Definition for ch 7A**

**‘180A.** In this chapter—

**“construction”**, of busway transport infrastructure, includes each of the following for the infrastructure, to the extent it involves the development of the busway transport infrastructure—

- (a) initial construction;
- (b) improvement of its standard;
- (c) realignment;
- (d) widening;
- (e) extension to accommodate the extension of a busway.

#### **‘Ways of achieving busway objectives**

**‘180B.** The objectives of this Act for busways are intended to be achieved by—

- (a) developing and putting into effect busway transport infrastructure strategies; and
- (b) establishing a legal framework to allow the construction, maintenance, management and operation of busway transport infrastructure in an effective and efficient way.

## **‘PART 2—CHIEF EXECUTIVE’S FUNCTIONS AND POWERS**

### **‘Functions**

**‘180C.** The chief executive has the following functions in relation to busways, including proposed busways, and busway transport infrastructure, including proposed busway transport infrastructure—

- (a) investigating, planning, establishing, maintaining, managing or operating, or arranging for someone else to investigate, plan, establish, maintain, manage or operate;
- (b) providing or arranging for associated services or works necessary or convenient for effective and efficient construction, management and operation;
- (c) efficiently integrating with any transport infrastructure, including light rail transport infrastructure;
- (d) providing for appropriate levels of safety in construction, management and operation;
- (e) doing other things that directly or indirectly—
  - (i) are likely to enhance the provision of busway transport infrastructure and passenger services on busways; or
  - (ii) are incidental or complementary to the performance of another function.

### **‘Authority to enter or temporarily occupy or use land**

**‘180D.(1)** For the performance of a function under this chapter, the chief executive, or someone authorised in writing by the chief executive, may—

- (a) do 1 or more of the following in relation to land—
  - (i) enter the land, whether or not for temporarily occupying or using the land;
  - (ii) temporarily occupy the land;
  - (iii) temporarily use the land; and

- (b) do anything on the land necessary or convenient for the function, including, for example, for busway transport infrastructure works.

‘(2) However, the chief executive must not authorise a person to enter land under this section if the entry is a type of entry able to be authorised under an investigator’s authority under chapter 7C.

**‘When land may be entered, occupied or used**

‘**180E.(1)** This section applies if a person proposes to enter, occupy or use land under this part.

‘(2) The person may enter, occupy or use the land without the permission of, or notice to, the owner or occupier of the land to perform urgent remedial work to facilitate or maintain the operation of busway transport infrastructure.

‘(3) However, the person must, if practicable, notify the occupier orally or in writing before entering the land.

‘(4) If the entry, occupation or use is other than for the performance of urgent remedial work, the person may enter, occupy or use the land if the person—

- (a) obtains the written permission of—
  - (i) each person who is an owner of the land; and
  - (ii) each person who is an occupier of the land; or
- (b) gives at least 7 days written notice to the occupier before the entry, occupation or use.

‘(5) The notice under subsection (4)(b) must state—

- (a) all works proposed to be performed; and
- (b) all uses proposed to be made of the land; and
- (c) details of anything else proposed to be done on the land; and
- (d) the approximate period when occupation or use is expected to continue; and
- (e) an owner or occupier of the land may claim compensation from

the chief executive for loss or damage caused by the entry, occupation or use.

‘(6) A notice may be given under this section even though it is proposed to resume the land for busway transport infrastructure.

‘(7) Power to enter, occupy or use land under this part does not authorise entry, occupation or use of a structure on the land used solely for residential purposes without the permission of the occupier of the land.

### ‘**Compensation**

‘**180F.(1)** This section applies if land is entered, occupied or used under this part.

‘(2) An owner or occupier of the land may claim compensation from the chief executive for loss or damage caused by the entry, occupation or use, including by the taking or consumption of materials.

‘(3) However, compensation is payable only if written notice of the claim or proposed claim is given to the chief executive—

- (a) after the loss or damage happens, but within 1 year after the entry, occupation or use ends; or
- (b) at a later time allowed by the chief executive.

‘(4) In the absence of agreement between the owner or occupier and the chief executive about the payment of compensation, payment of compensation may be claimed and ordered in a proceeding brought in the Land Court.

‘(5) The Land Court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

‘(6) Compensation paid under this section for loss or damage caused to land must not be more than the compensation that would have been awarded if the land had been acquired.

---

## **‘PART 3—ESTABLISHMENT OF BUSWAYS**

### **‘Definition for pt 3**

**‘180G.** In this part—

**“road”** means a road under the *Land Act 1994*, but does not include a State-controlled road.

### **‘Declaration of land as busway land**

**‘180H.(1)** The Minister may, by gazette notice, declare land to be busway land.

**‘(2)** Land declared to be busway land—

(a) must be—

(i) identified specifically in the gazette notice; or

(ii) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available for perusal at an office of the department mentioned in the gazette notice; and

(b) must consist only of land for a busway and necessary busway transport infrastructure.

**‘(3)** The identification of land declared to be busway land may, but need not, be by reference to strata occupied by the land.

**‘(4)** Land may be declared to be busway land only if it is—

(a) land acquired by the State or the chief executive for busway purposes, including for busway transport infrastructure; or

(b) a road.

### **‘Effect on land of busway declaration**

**‘180I.(1)** If a road or a part of a road is declared under this part to be busway land, the road or part—

(a) stops being a road; and

(b) becomes unallocated State land.

‘(2) If a lot or a part of a lot under the *Land Title Act 1994* is declared under this part to be busway land, the lot or part becomes unallocated State land.

‘(3) Busway land can not be declared under section 23 to be a State-controlled road.

‘(4) The Governor in Council must lease busway land that is unallocated State land to the State under the *Land Act 1994*, section 17.<sup>1</sup>

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

#### ‘Development of busway and busway transport infrastructure

‘180J.(1) This section applies to the establishment of a busway, including any investigating, planning, maintaining, managing, operating, and arranging for the busway or for busway transport infrastructure for the busway.

‘(2) Nothing in this chapter is intended to affect the operation of the *Integrated Planning Act 1997* to the extent that the establishment of the busway is development under that Act.

## ‘PART 4—MANAGEMENT OF BUSWAY LAND AND BUSWAY TRANSPORT INFRASTRUCTURE

### ‘*Division 1—Transport infrastructure interaction*

#### ‘Altering road levels by a local government

‘180K.(1) The chief executive may require a local government having control of a road to alter the level of the road for—

---

<sup>1</sup> *Land Act 1994*, section 17 (Granting land to the State)

- (a) busway transport infrastructure works; or
- (b) the management or operation of a busway.

‘(2) However, the chief executive—

- (a) must consult with the local government about the nature and extent of the alteration of the level of the road before the alteration is started; and
- (b) subject to an agreement between the chief executive and the local government arising out of the consultation, pay all reasonable costs incurred by the local government in altering the road level.

‘(3) The local government must comply with the chief executive’s requirement.

**‘Permitted construction by local government of roads over or under busway land**

‘180L.(1) Despite section 180I(1), the chief executive may permit a local government to construct, maintain and operate a road located on busway land, consisting of—

- (a) a bridge or other structure allowing traffic to pass over the level at which buses use the busway land; or
- (b) a structure allowing traffic to pass under the level at which buses use the busway land.

‘(2) The permission may be given on reasonable conditions.

‘(3) In deciding whether to give the permission, the chief executive must consider the limiting effect the use of the road is likely to have on the use of the busway land for busway passenger services.

‘(4) While the bridge or other structure is being used for the road—

- (a) neither the chief executive nor any person the chief executive has permitted to operate a bus using the busway land has any duty or liability for the road or its use or operation; and
- (b) the road is taken to be a road of which the local government has control under the *Local Government Act 1993*, section 901(1); and

- (c) the road is taken to be a road under any Act about the use of vehicles on a road.

‘(5) Unless the chief executive and the local government otherwise agree—

- (a) the local government is responsible for maintaining the road and the bridge or other structure; and
- (b) if the bridge or other structure stops being used for the road, the local government is responsible for the cost of taking the bridge or other structure away and of restoring the busway land.

#### **‘Designation of busway land for use as road under local government control**

‘**180M.(1)** Despite section 180I(1), the chief executive may, by gazette notice, designate busway land described in the notice as busway land that is to be used as a road under a local government’s control.

‘(2) The chief executive must also—

- (a) give a copy of the notice to the local government; and
- (b) publish a copy of the notice in a newspaper circulating generally in the area of the busway land.

‘(3) The land described in the notice must be land generally suitable for both of the following—

- (a) use as a road;
- (b) the operation of a busway.

‘(4) The notice may include directions with which the local government must comply, including directions about the local government’s exercise of powers under the *Local Government Act 1993* for roads it controls.

‘(5) However, the chief executive must consult with the local government before including any directions in the notice.

‘(6) While the notice is in force, the land described in the notice is taken to be—

- (a) a road of which the local government has control under the *Local*



---

*Government Act 1993*, section 901(1); and

(b) a road under any Act about the use of vehicles on a road.

‘(7) However, in taking the necessary steps mentioned in the *Local Government Act 1993*, section 901(2), the local government must comply with all directions included in the notice, including the notice as amended from time to time.

### ‘Designation of busway land for use as State-controlled road

‘180N.(1) Despite section 180I(1), the Minister may, by gazette notice, designate busway land described in the notice as busway land to be used as a State-controlled road.

‘(2) The Minister must also publish a copy of the notice in a newspaper circulating generally in the area of the busway land.

‘(3) The land described in the notice must be land generally suitable for both of the following—

- (a) use as a State-controlled road;
- (b) the operation of a busway.

‘(4) The notice may include operational arrangements applying to the use of the busway land as a State-controlled road.

‘(5) While the notice is in force, the land described in the notice is, except to the extent provided for in the notice, taken to be—

- (a) a State-controlled road for the provisions of this Act, other than chapter 5, part 2, division 1 and part 5, division 3, and of any other Act applying to State-controlled roads; and
- (b) a road under any Act about the use of vehicles on a road.

### ‘No presumption of dedication of road

‘180O.(1) This section applies if the public uses busway land as a road, or for access purposes other than as a road.

‘(2) The busway land does not at law, either because the use is authorised or permitted by the chief executive or for another reason, become dedicated to public use as a road.

***‘Division 2—Interfering with busway transport infrastructure***

**‘Interfering with busway transport infrastructure**

‘**180P.(1)** A person must not interfere with or carry out works on busway transport infrastructure unless—

- (a) the person has the written approval of the chief executive; or
- (b) the interference or works are for the construction, maintenance or operation of a road permitted under this part to be constructed, maintained and operated across, over or under the busway transport infrastructure; or
- (c) the interference or works are otherwise authorised under this Act or another Act.

Maximum penalty—160 penalty units.

‘(2) Subsection (1) applies even if the interference or works are for the carrying out of functions that apart from subsection (1) are lawful on busway land that, under division 1, is taken to be—

- (a) a road of which a local government has control under the *Local Government Act 1993*, section 901(1); or
- (b) a State-controlled road for provisions of any Act applying to State-controlled roads.

‘(3) An approval under subsection (1)(a) may be given on reasonable conditions.

‘(4) The person given the approval must comply with the conditions of the approval.

Maximum penalty—40 penalty units.

‘(5) Subsection (1) does not apply to the carrying out of urgent maintenance of a busway or busway transport infrastructure.

**‘Rectifying unauthorised interference or works**

**‘180Q.(1)** This section applies if a person (the **“identified person”**) interferes with or carries out works on busway transport infrastructure in contravention of section 180P(1).

**‘(2)** The chief executive may, by written notice given to the identified person, require the person to rectify the interference, or the effect of the carrying out of the works, within a stated reasonable time.

**‘(3)** The identified person must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

**‘(4)** If the identified person does not comply with the notice, the chief executive may rectify the interference or the effect of the carrying out of the works.

**‘(5)** The identified person must pay the amount of the chief executive’s reasonable costs of—

- (a) rectifying the interference or the effect of the carrying out of the works; or
- (b) changing the way the busway transport infrastructure is built, maintained or operated because of the interference or the effect of the carrying out of the works.

**‘(6)** The chief executive may recover the amount as a debt.

**‘(7)** In this section—

**“rectify the interference”** includes the following—

- (a) alter, dismantle or take away works;
- (b) fix damage caused by the interference.

***‘Division 3—Public utility plant***

**‘Definition for div 3**

**‘180R.** In this division—

“**busway land**” means busway land that, when declared under this chapter to be busway land, was a road or part of a road.

### **‘Retention of ownership of public utility plant**

‘**180S.(1)** This section applies if, immediately before the declaration of land as busway land public utility plant is located on the land.

‘**(2)** The declaration does not affect the ownership of the public utility plant.

### **‘Public utility plant on busway land**

‘**180T.(1)** A public utility provider may do the following things on busway land—

- (a) build, replace or take away, or alter, other than for maintenance or repair, its public utility plant;
- (b) maintain or repair, or alter, for maintenance or repair, its public utility plant;
- (c) take reasonable steps to stop obstruction or potential obstruction to, or interference or potential interference with, its public utility plant.

‘**(2)** However, the provider may do things mentioned in subsection (1) only if the chief executive agrees in writing.

‘**(3)** The chief executive must not unreasonably withhold agreement.

‘**(4)** Despite subsection (2), a public utility provider may, if acting in the interests of public safety, carry out urgent maintenance of its public utility plant on busway land without the written agreement of the chief executive, but only if the provider—

- (a) makes all reasonable attempts to obtain the chief executive’s oral agreement to the carrying out of the maintenance; and
- (b) whether or not the chief executive’s oral agreement is obtained, acts as quickly as possible to advise the chief executive of the details of the maintenance being carried out.

‘(5) Building or altering public utility plant under subsection (1)(a) does not affect the ownership of the plant.

#### **‘Chief executive must give provider information**

‘**180U.** If asked in writing by a public utility provider, the chief executive must give the provider information about lines and levels for planned busway transport infrastructure on busway land necessary to enable the provider to minimise possible adverse affects of the establishment of the infrastructure on the provider’s works.

#### **‘Public utility provider to consult with chief executive before replacing public utility plant**

‘**180V.(1)** If a public utility provider proposes to replace the whole or a substantial proportion of its public utility plant on busway land, the provider must, before seeking written agreement under section 180T, consult with the chief executive.

‘(2) The object of the consultation is to identify mutually beneficial arrangements for the replacement of the public utility plant, having regard to existing development plans for the busway land.

#### **‘Public utility provider to comply with chief executive’s agreement**

‘**180W.(1)** This section applies if, in relation to busway land, a public utility provider does something mentioned in section 180T(1) (the “**relevant action**”)—

- (a) without the written or oral agreement of the chief executive required under section 180T; or
- (b) in a way inconsistent with an agreement with the chief executive; or
- (c) in a way inconsistent with a regulation about how things mentioned in section 180T(1) are to be done.

‘(2) The chief executive may, by written notice given to the public utility provider, require the provider, at the provider’s cost, and within the time

stated in the notice, to take action to remedy the relevant action.

‘(3) The time stated in the notice must be a time that is reasonable in the circumstances.

‘(4) If the provider does not comply with the notice, the chief executive may arrange for action the chief executive considers necessary to remedy the relevant action.

‘(5) The chief executive’s reasonable expenses in arranging for the action to be carried out is a debt payable by the provider to the chief executive.

### **‘Chief executive may require public utility provider to alter position of public utility plant**

‘**180X.(1)** The chief executive may require a public utility provider to alter the position of the provider’s public utility plant on busway land if the chief executive considers that the plant will interfere with the exercise of the chief executive’s powers for the busway land.

‘(2) The chief executive is responsible only for the cost of altering the position of the public utility plant.

### **‘Information by public utility provider to chief executive**

‘**180Y.(1)** If, in relation to public utility plant on busway land, a public utility provider does something mentioned in section 180T(1), the provider must prepare records adequately defining the location of the plant.

‘(2) A public utility provider owning public utility plant located on busway land must, if asked by the chief executive, give the chief executive information adequately defining the location of the plant.

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

### **‘Liability for damage caused by failure to comply with request for information**

‘**180Z.(1)** This section applies if—

- (a) the chief executive causes damage to public utility plant located on busway land; and

- (b) before the damage was caused, the chief executive had asked for information under section 180Y(2) from the public utility provider owning the public utility plant; and
- (c) the provider had not, within a reasonable time, complied with the request; and
- (d) the damage was caused because of the failure to comply with the request.

‘(2) Unless the chief executive otherwise agrees, the chief executive is not liable for the damage.

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

‘**180ZA.(1)** This section applies if—

- (a) the chief executive causes damage to public utility plant located on busway land; and
- (b) information supplied to the chief executive under section 180Y(2) did not define in enough detail the location of the plant; and
- (c) the damage was caused because of the failure to define in enough detail the location of the plant.

‘(2) Unless the chief executive otherwise agrees, the chief executive is not liable for the damage.

**‘Liability for damage caused because of failure to comply with chief executive’s requirements**

‘**180ZB.(1)** This section applies if—

- (a) the chief executive causes damage to public utility plant located on busway land; and
- (b) the damage is caused because the public utility provider owing the plant did something mentioned in section 180T(1) in relation to the plant other than under the chief executive’s requirements under this division.

‘(2) Unless the chief executive otherwise agrees, the chief executive is not liable for the damage.

**‘Liability of public utility provider to pay additional expenses incurred by chief executive**

‘**180ZC.(1)** This section applies if the chief executive incurs additional expense in carrying out busway transport infrastructure works on busway land because a public utility provider—

- (a) did not supply within a reasonable time information asked for by the chief executive under section 180Y(2); or
- (b) in supplying information to the chief executive, did not define in enough detail the location of public utility plant; or
- (c) did something mentioned in section 180T(1) in relation to public utility plant other than under the chief executive’s requirements under this division.

‘(2) The public utility provider is liable to pay the chief executive the additional expense.

**‘Replacement or reconstruction of public utility plant**

‘**180ZD.(1)** If the carrying out of busway transport infrastructure works on busway land by or for the chief executive requires taking away or replacing public utility plant, the chief executive can not be compelled to replace or reconstruct the plant in its previous location and form.

‘(2) If the plant is replaced or reconstructed—

- (a) it must be done under the chief executive’s requirements; and
- (b) it must be at the chief executive’s expense, but the cost to the chief executive of replacement or reconstruction may be reduced by agreement between the chief executive and the public utility provider owning 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 incurred because of inaccurate information supplied by the provider about the location of the plant; and
- (iv) additional expense incurred because the plant was not constructed in accordance with the chief executive's requirements.

*'Division 4—Use of busway land*

**'Trespass on busway land**

**'180ZE.(1)** A person must not be on busway land if the person does not have the permission of the chief executive to be on the busway land.

Maximum penalty—40 penalty units.

**'(2)** For subsection (1), permission may be given, for example—

- (a) expressly, by signs, structures, textured pavement or painted lines designating points for vehicles or pedestrians to cross the busway land; or
- (b) impliedly, by the absence of demarcation between ordinary road and the pavement of the busway land.

**'(3)** Subsection (1) does not apply to a person who is on busway land if, under division 1, the busway land is taken to be—

- (a) a road of which a local government has control under the *Local Government Act 1993*, section 901(1); or
- (b) a State-controlled road.

**'(4)** A regulation may include rules about the use by the following of busway land—

- (a) buses operating on a busway established on the busway land;
- (b) persons having the permission of the chief executive to be on the busway land.

---

*‘Division 5—Compensation entitlements*

**‘Definitions for div 5**

**‘180ZF.** In this division—

**“access”**, for land, means—

- (a) access to the land from the road network, whether or not through other land; or
- (b) access from the land to the road network, whether or not through other land.

**“busway land”** means busway land that, when declared under this chapter to be busway land, was a road or part of a road.

**“establishment”**, of busway transport infrastructure on busway land, includes the following—

- (a) initial construction of the busway transport infrastructure on the busway land;
- (b) construction for changing or adding to busway transport infrastructure previously constructed on the busway land;
- (c) putting in place the arrangements under which persons are permitted or not permitted to be on the busway land.

**“interference”**, with access, includes loss or reduction of access.

**‘No entitlement to compensation for particular matters**

**‘180ZG.(1)** A person having an interest in land (the **“relevant land”**) has no entitlement at law, except to the extent this division provides, to compensation for a matter listed in subsection (2), to the extent the matter is caused by—

- (a) the establishment of a busway; or
- (b) the establishment or proposed establishment of busway transport infrastructure on busway land; or
- (c) the operation of a busway on busway land.

‘(2) The matters are—

- (a) the adverse affect on the amenity or likely amenity of the neighbourhood of the relevant land; and
- (b) interference with an activity of a business, commercial, industrial or residential nature carried out on the relevant land; and
- (c) loss or damage arising directly or indirectly from interference with access for the relevant land; and
- (d) the reduction or loss of a right of access for the relevant land and loss or damage caused by the reduction or loss of the right of access.

**‘Compensation for reduced market value of interest in land**

**‘180ZH.(1)** A person who has an interest in land (the **“relevant land”**) is entitled to compensation if the establishment of busway transport infrastructure on busway land (the **“infrastructure”**), when completed, is a cause of interference (the **“interference”**) with access for the relevant land.

‘(2) Subsection (1) applies only if—

- (a) either of the following applies—
  - (i) the busway land joins directly with the relevant land or with land (**“access land”**) giving access for the relevant land because of an easement or other right or interest;
  - (ii) the busway land does not join directly with the relevant land or with access land, but it is possible to travel from the relevant land or access land to the busway land by travelling only over road; and
- (b) the practical effect of the interference is substantially greater in nature and extent than the practical effect of interference with access for the relevant land that might reasonably be expected to be experienced from time to time in changes to the operation of the road network; and
- (c) the practical effect of the interference is that there is a direct and substantial interference with practicable access for the relevant land compared with the practicable access existing for the relevant

land before the establishment of the infrastructure.

‘(3) The amount of the compensation is the amount by which the market value of the interest may fairly be said to have been reduced because of the interference now affecting the relevant land.

‘(4) However, the compensation must not be more than the compensation that would have been awarded if the interest had been acquired.

**‘Compensation of person in actual occupation for interference with enjoyment of land**

‘**180ZL(1)** A person is entitled to compensation if—

- (a) the person is in actual occupation of land (the “**relevant land**”) when the establishment of busway transport infrastructure on busway land (the “**infrastructure**”) is happening or when it is completed; and
- (b) the establishment of the infrastructure is a cause of interference with access (the “**access interference**”) for the relevant land; and
- (c) the access interference is a cause of interference (the “**enjoyment interference**”) with the person’s enjoyment of the relevant land.

‘(2) Subsection (1) applies only if—

- (a) either of the following applies—
  - (i) the busway land joins directly with the relevant land or with land (“**access land**”) giving access for the relevant land because of an easement or other right or interest;
  - (ii) the busway land does not join directly with the relevant land or with access land, but it is possible to travel from the relevant land or access land to the busway land by travelling only over road; and
- (b) the practical effect of the access interference is substantially greater in nature and extent than the practical effects of interference with access for the relevant land that might reasonably be expected to be experienced from time to time in changes to the operation of the road network; and

- (c) the practical effect of the access interference is that there is a direct and substantial interference with practicable access for the relevant land compared with the practicable access existing for the relevant land before the establishment of the infrastructure.

‘(3) The amount of compensation is an amount fairly representing, in the particular circumstances—

- (a) if the person is in occupation of the relevant land at any time during the establishment of the infrastructure—the reasonable cost to the person of the enjoyment interference during the establishment; and
- (b) if the person is in occupation of the relevant land when the establishment of the infrastructure is completed—the reasonable cost to the person of the enjoyment interference, starting from when the establishment of the infrastructure is completed.

‘(4) In calculating the compensation, no regard is to be had to the reduction in the market value of an interest the person may have in the relevant land.

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

‘**180ZJ.(1)** The chief executive may, having regard to the establishment, or proposed establishment, of busway transport infrastructure on busway land, enter into an agreement with a person who is the owner or occupier of land (the “**relevant land**”) for—

- (a) the supply by the chief executive, or a contribution by the chief executive towards the supply, of works for alternative access for the relevant land; or
- (b) the carrying out, or a contribution towards the carrying out, of other works in relation to the relevant land for the purpose of access for the land.

‘(2) A person’s entitlement to compensation under this division is reduced to the extent provided for in an agreement under subsection (1).

**‘Obtaining compensation**

**‘180ZK.(1)** A person claiming to be entitled to compensation under this division may apply in writing to the chief executive for the compensation.

**‘(2)** The application must be made—

- (a) within 12 months after the establishment of busway transport infrastructure on busway land giving rise to the claim for compensation; or
- (b) within a longer time agreed by the chief executive.

**‘(3)** If, within 60 days after the person applies under subsection (1), or a longer time agreed between the person and the chief executive, no agreement has been reached between the person and the chief executive on the application—

- (a) the person may apply to the Land Court for the compensation; or
- (b) the chief executive may apply to the Land Court to have the compensation decided by the court.

**‘(4)** The Land Court has jurisdiction to deal with an application made to it under subsection (3), including jurisdiction to require the chief executive to pay the person compensation decided by the court.

**‘(5)** Nothing in subsection (2)(a) stops a person from applying for compensation before the establishment of the busway transport infrastructure is completed if the claim relates to the person’s occupation of land during the establishment of the infrastructure.

## **‘CHAPTER 7B—LIGHT RAIL AND LIGHT RAIL TRANSPORT INFRASTRUCTURE**

### **‘PART 1—PRELIMINARY**

#### **‘Definition for ch 7B**

**‘180ZL.** In this chapter—

**“construction”**, of light rail transport infrastructure, includes each of the following for the infrastructure, to the extent it involves the development of the light rail transport infrastructure—

- (a) initial construction;
- (b) improvement of its standard;
- (c) realignment;
- (d) widening;
- (e) extension to accommodate the extension of a light rail.

#### **‘Ways of achieving light rail objectives**

**‘180ZM.** The objectives of this Act for light rail are intended to be achieved by—

- (a) developing and putting into effect light rail transport infrastructure strategies; and
- (b) establishing a legal framework to allow the construction, maintenance, management and operation of light rail transport infrastructure in an effective and efficient way.

## **‘PART 2—CHIEF EXECUTIVE’S FUNCTIONS AND POWERS**

### **‘Functions**

**‘180ZN.** The chief executive has the following functions in relation to light rail, including a proposed light rail, and light rail transport infrastructure, including proposed light rail transport infrastructure—

- (a) investigating, planning, establishing, maintaining, managing or operating, or arranging for someone else to investigate, plan, establish, maintain, manage or operate;
- (b) providing or arranging for associated services or works necessary or convenient for effective and efficient construction, management and operation;
- (c) efficiently integrating with any transport infrastructure, including busway transport infrastructure;
- (d) providing for appropriate levels of safety in construction, management and operation;
- (e) doing other things that directly or indirectly—
  - (i) are likely to enhance the provision of light rail transport infrastructure and passenger services on light rail; or
  - (ii) are incidental or complementary to the performance of another function.

### **‘Authority to enter or temporarily occupy or use land**

**‘180ZO.(1)** For the performance of a function under this chapter, the chief executive, or someone authorised in writing by the chief executive, may—

- (a) do 1 or more of the following in relation to land—
  - (i) enter the land, whether or not for temporarily occupying or using the land;
  - (ii) temporarily occupy the land;



- (iii) temporarily use the land; and
- (b) do anything on the land necessary or convenient for the function, including, for example, for light rail transport infrastructure works.

‘(2) However, the chief executive must not authorise a person to enter land under this section if the entry is a type of entry able to be authorised under an investigator’s authority under chapter 7C.

### ‘When land may be entered, occupied or used

‘**180ZP.(1)** This section applies if a person proposes to enter, occupy or use land under this part.

‘(2) The person may enter, occupy or use the land without the permission of, or notice to, the owner or occupier of the land to perform urgent remedial work to facilitate or maintain the operation of light rail transport infrastructure.

‘(3) However, the person must, if practicable, notify the occupier orally or in writing before entering the land.

‘(4) If the entry, occupation or use is other than for the performance of urgent remedial work, the person may enter, occupy or use the land if the person—

- (a) obtains the written permission of—
  - (i) each person who is an owner of the land; and
  - (ii) each person who is an occupier of the land; or
- (b) gives at least 7 days written notice to the occupier before the entry, occupation or use.

‘(5) The notice under subsection (4)(b) must state—

- (a) all works proposed to be performed; and
- (b) all uses proposed to be made of the land; and
- (c) details of anything else proposed to be done on the land; and
- (d) the approximate period when occupation or use is expected to continue; and

- (e) that an owner or occupier of the land may claim compensation from the chief executive for loss or damage caused by the entry, occupation or use.

‘(6) A notice may be given under this section even though it is proposed to resume the land for light rail transport infrastructure.

‘(7) Power to enter, occupy or use land under this part does not authorise entry, occupation or use of a structure on the land used solely for residential purposes without the permission of the occupier of the land.

### ‘**Compensation**

‘**180ZQ.(1)** This section applies if land is entered, occupied or used under this part.

‘(2) An owner or occupier of the land may claim compensation from the chief executive for loss or damage caused by the entry, occupation or use, including by the taking or consumption of materials.

‘(3) However, compensation is payable only if written notice of the claim or proposed claim is given to the chief executive—

- (a) after the loss or damage happens, but within 1 year after the entry, occupation or use ends; or
- (b) at a later time allowed by the chief executive.

‘(4) In the absence of agreement between the owner or occupier and the chief executive about the payment of compensation, payment of compensation may be claimed and ordered in a proceeding brought in the Land Court.

‘(5) The Land Court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

‘(6) Compensation paid under this section for loss or damage caused to land must not be more than the compensation that would have been awarded if the land had been acquired.

---

## **‘PART 3—ESTABLISHMENT OF LIGHT RAIL**

### **‘Definition for pt 3**

**‘180ZR.** In this part—

**“road”** means a road under the *Land Act 1994*, but does not include a State-controlled road.

### **‘Declaration of land as light rail land**

**‘180ZS.(1)** The Minister may, by gazette notice, declare land to be light rail land.

**‘(2)** Land declared to be light rail land—

(a) must be—

(i) identified specifically in the gazette notice; or

(ii) identified generally in the gazette notice, and identified specifically in documents described in the gazette notice and available for perusal at an office of the department mentioned in the gazette notice; and

(b) must consist only of land for a light rail and necessary light rail transport infrastructure.

**‘(3)** The identification of land declared to be light rail land may, but need not, be by reference to strata occupied by the land.

**‘(4)** Land may be declared to be light rail land only if it is—

(a) land acquired by the State or the chief executive for light rail purposes, including for light rail transport infrastructure; or

(b) busway land, but only if it is the subject of a lease to the State under the *Land Act 1994*, section 17;<sup>2</sup> or

(c) a road.

---

<sup>2</sup> *Land Act 1994*, section 17 (Granting land to the State)

**‘Effect on land of light rail declaration**

‘**180ZT.(1)** If a road or a part of a road is declared under this part to be light rail land, the road or part—

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

‘**(2)** If a lot or a part of a lot under the *Land Title Act 1994* is declared under this part to be light rail land, the lot or part becomes unallocated State land.

‘**(3)** If busway land is declared under this part to be light rail land—

- (a) any lease of the land under the *Land Act 1994*, section 17 provided for under chapter 7A ends; and
- (b) the land stops being busway land and becomes unallocated State land.

‘**(4)** Light rail land can not be declared under section 23 to be a State-controlled road.

‘**(5)** The Governor in Council must lease light rail land that is unallocated State land to the State under the *Land Act 1994*, section 17.

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

**‘Sublease of lease of light rail land**

‘**180ZU.(1)** The State may sublease its lease of light rail land to a light rail manager for a light rail established or proposed to be established on the light rail land on terms negotiated and agreed between the parties.

‘**(2)** For the *Land Act 1994*, section 332(1)(b),<sup>3</sup> the light rail manager is eligible to hold a sublease of the lease.

‘**(3)** The first sublease under subsection (1) (the “**original sublease**”) may include an option to renew the sublease, and any subsequent sublease may in turn include an option to renew.

‘**(4)** The terms of any option and any subsequent sublease are to be those

---

<sup>3</sup> *Land Act 1994*, section 332 (Subleases require Minister’s approval)

negotiated and agreed between the parties.

‘(5) The *Land Act 1994*, section 336(2)(a)<sup>4</sup> does not apply to a document of amendment of the original sublease or any subsequent sublease.

‘(6) If the light rail manager attaches light rail transport infrastructure to the land the subject of the original sublease or a subsequent sublease, the infrastructure immediately becomes the property of the chief executive unless the parties to the sublease agree it is to become the property of the chief executive at a later time.

‘(7) Despite any agreement under subsection (6), the infrastructure, if it has not already become the property of the chief executive, becomes the property of the chief executive—

- (a) if there is no subsequent sublease—at the end of the original sublease; or
- (b) if there is only 1 subsequent sublease—at the end of the subsequent sublease; or
- (c) if there are 2 or more subsequent subleases—at the end of the last of the subsequent subleases.

‘(8) Neither the original sublease nor any subsequent sublease stops being a sublease only because—

- (a) under part 4, land the subject of the sublease is taken to be a State-controlled road or a road under the control of a local government; or
- (b) persons are expressly or impliedly permitted by the chief executive under this chapter to be on the subleased land.

‘(9) This section does not stop the granting of a lease or sublease to a light rail manager for a light rail, other than under this section, of land that is not light rail land but on which there is, or is proposed to be, light rail transport infrastructure.

---

<sup>4</sup> *Land Act 1994*, section 336 (Amending a sublease)

‘(10) In this section—

“**light rail land**” means light rail land that is leased to the State under the *Land Act 1994*, section 17.<sup>5</sup>

### ‘Development of light rail and light rail transport infrastructure

‘**180ZV.(1)** This section applies to the establishment of a light rail, including all investigating, planning, maintaining, managing, operating, and arranging for the light rail or for light rail transport infrastructure for the light rail.

‘(2) Nothing in this chapter is intended to affect the operation of the *Integrated Planning Act 1997* to the extent that the establishment of the light rail is development under that Act.

## ‘PART 4—MANAGEMENT OF LIGHT RAIL LAND AND LIGHT RAIL TRANSPORT INFRASTRUCTURE

### ‘*Division 1—Transport infrastructure interaction*

#### ‘Altering road levels by a local government

‘**180ZW.(1)** The chief executive may require a local government having control of a road to alter the level of the road for—

- (a) light rail transport infrastructure works; or
- (b) the management or operation of a light rail.

‘(2) However, the chief executive—

- (a) must consult with the local government about the nature and extent of the alteration of the level of the road before the alteration is started; and

---

<sup>5</sup> *Land Act 1994*, section 17 (Granting land to the State)

- (b) subject to an agreement between the chief executive and the local government arising out of the consultation, pay all reasonable costs incurred by the local government in altering the road level.

‘(3) The local government must comply with the chief executive’s requirements.

**‘Permitted construction by local government of roads over or under light rail land**

‘**180ZX.(1)** Despite section 180ZT(1), the chief executive may permit a local government to construct, maintain and operate a road located on light rail land, consisting of—

- (a) a bridge or other structure allowing traffic to pass over the level at which light rail vehicles use the light rail land; or
- (b) a structure allowing traffic to pass under the level at which light rail vehicles use the light rail land.

‘(2) However, if there is a light rail manager for a light rail established on the light rail land, the chief executive must consult with the light rail manager before deciding whether to give the permission.

‘(3) The permission may be given on reasonable conditions.

‘(4) In deciding whether to give the permission, the chief executive must consider the limiting effect the use of the road is likely to have on the use of the light rail land for light rail passenger services.

‘(5) While the bridge or other structure is being used for the road—

- (a) none of the following has any duty or liability for the road or its use or operation—
  - (i) the chief executive;
  - (ii) if there is a light rail manager for a light rail established on the light rail land, the manager;
  - (iii) if there is a light rail operator for a light rail established on the light rail land, the operator; and
- (b) the road is taken to be a road of which the local government has control under the *Local Government Act 1993*, section 901(1);

and

- (c) the road is taken to be a road under any Act about the use of vehicles on a road.

‘(6) Unless the chief executive and the local government otherwise agree—

- (a) the local government is responsible for maintaining the road and the bridge or other structure; and
- (b) if the bridge or other structure stops being used for the road, the local government is responsible for the cost of taking the bridge or other structure away and of restoring the light rail land.

#### **‘Designation of light rail land for use as road under local government control**

‘**180ZY.(1)** Despite section 180ZT(1), the chief executive may, by gazette notice, designate light rail land described in the notice as light rail land that is to be used as a road under a local government’s control.

‘(2) The chief executive must also—

- (a) give a copy of the notice to the local government; and
- (b) publish a copy of the notice in a newspaper circulating generally in the area of the light rail land.

‘(3) If there is a light rail manager for a light rail established on the light rail land, the chief executive must consult with the light rail manager before designating the light rail land under the notice.

‘(4) The land described in the notice must be land generally suitable for both of the following—

- (a) use as a road;
- (b) the operation of a light rail.

‘(5) The notice may include directions with which the local government must comply, including directions about the local government’s exercise of powers under the *Local Government Act 1993* for roads it controls.

‘(6) However, the chief executive must consult with the local government



before including any directions in the notice.

‘(7) While the notice is in force, the land described in the notice is taken to be—

- (a) a road of which the local government has control under the *Local Government Act 1993*, section 901(1); and
- (b) a road under any Act about the use of vehicles on a road.

‘(8) However, in taking the necessary steps mentioned in the *Local Government Act 1993*, section 901(2), the local government must comply with all directions included in the notice, including the notice as amended from time to time.

#### **‘Designation of light rail land for use as State-controlled road**

‘**180ZZ.(1)** Despite section 180ZT(1), the Minister may, by gazette notice, designate light rail land described in the notice as light rail land to be used as a State-controlled road.

‘(2) The Minister must also publish a copy of the notice in a newspaper circulating generally in the area of the light rail land.

‘(3) If there is a light rail manager for a light rail established on the light rail land, the Minister must consult with the manager before designating the light rail land under the notice.

‘(4) The land described in the notice must be land generally suitable for both of the following—

- (a) use as a State-controlled road;
- (b) the operation of a light rail.

‘(5) The notice may include operational arrangements applying to the use of the light rail land as a State-controlled road.

‘(6) While the notice is in force, the land described in the notice is, except to the extent provided for in the notice, taken to be—

- (a) a State-controlled road for the provisions of this Act, other than

chapter 5, part 2, division 1 and part 5, division 3,<sup>6</sup> and of any other Act, applying to State-controlled roads; and

- (b) a road under any Act about the use of vehicles on a road.

### **‘No presumption of dedication of road**

**‘180ZZA.(1)** This section applies if the public uses light rail land as a road, or for access purposes other than as a road.

**‘(2)** The light rail land does not at law, either because the use is authorised or permitted by the chief executive or for another reason, become dedicated to public use as a road.

### ***‘Division 2—Interfering with light rail transport infrastructure***

#### **‘Interfering with light rail transport infrastructure**

**‘180ZZB.(1)** A person must not interfere with or carry out works on light rail transport infrastructure unless—

- (a) the person has the written approval of—
- (i) if there is a light rail manager for a light rail established for the light rail transport infrastructure—the manager; or
  - (ii) otherwise—the chief executive; or
- (b) the interference or works are for the construction, maintenance or operation of a road permitted under this part to be constructed, maintained and operated across, over or under the light rail transport infrastructure; or
- (c) the interference or works are otherwise authorised under this Act or another Act.

Maximum penalty—160 penalty units.

<sup>6</sup> Chapter 5 (Road transport infrastructure), part 2 (State-controlled roads), division 1 (Declaration of State-controlled roads) and part 5 (Management of State-controlled roads), division 3 (Public utility plant on State-controlled roads)

‘(2) Subsection (1) applies even if the interference or works are for the carrying out of functions that apart from subsection (1) are lawful on light rail land that, under division 1, is taken to be—

- (a) a road of which a local government has control under the *Local Government Act 1993*, section 901(1); or
- (b) a State-controlled road for provisions of any Act applying to State-controlled roads.

‘(3) An approval under subsection (1)(a) may be given on reasonable conditions.

‘(4) However, a light rail manager for a light rail may give the approval only if the chief executive—

- (a) has been consulted about the giving of the approval; and
- (b) has approved all conditions to which the approval is subject.

‘(5) The person given the approval must comply with the conditions of the approval.

Maximum penalty—40 penalty units.

‘(6) Subsection (1) does not apply to the carrying out of urgent maintenance of a light rail or light rail transport infrastructure.

### ‘**Rectifying unauthorised interference or works**

‘**180ZZC.(1)** This section applies if a person (the “**identified person**”) interferes with or carries out works on light rail transport infrastructure in contravention of section 180ZZB(1).

‘(2) If there is a light rail manager for a light rail established for the light rail transport infrastructure, the manager may, by written notice given to the identified person, require the person to rectify the interference or the effect of the carrying out of the works within a stated reasonable time.

‘(3) The light rail manager may give the identified person the notice only if the chief executive—

- (a) has been consulted about the giving of the notice; and
- (b) has approved the terms of the notice.

‘(4) If subsection (2) does not apply, the chief executive may, by written notice given to the identified person, require the person to rectify the interference, or the effect of the carrying out of the works, within a stated reasonable time.

‘(5) The identified person must comply with a notice given under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(6) If the identified person does not comply with the notice, the person who gave the notice (the “**notifier**”) may rectify the interference or the effect of the carrying out of the works.

‘(7) The identified person must pay the amount of the notifier’s reasonable costs of—

- (a) rectifying the interference or the effect of the carrying out of the works; or
- (b) changing the way the light rail transport infrastructure is built, maintained or operated because of the interference or the effect of the carrying out of the works.

‘(8) The notifier may recover the amount as a debt.

‘(9) In this section—

“**rectify the interference**” includes the following—

- (a) alter, dismantle or take away works;
- (b) fix damage caused by the interference.

### *‘Division 3—Public utility plant*

#### ‘Definitions for div 3

‘**180ZZD**. In this division—

“**busway land**” means busway land that, when declared under chapter 7A to be busway land, was a road or part of a road.

“**light rail authority**”, for light rail land, means—

- (a) if there is a light rail manager for a light rail established, or proposed to be established, on the light rail land—each of the following—
  - (i) the chief executive;
  - (ii) the light rail manager; or
- (b) otherwise—the chief executive.

**‘light rail land’** means light rail land that, when declared under this chapter to be light rail land, was—

- (a) a road or part of a road; or
- (b) busway land.

#### **‘Retention of ownership of public utility plant**

**‘180ZZE.(1)** This section applies if, immediately before the declaration of land as light rail land public utility plant is located on the land.

**‘(2)** The declaration does not affect the ownership of the public utility plant.

#### **‘Public utility plant on light rail land**

**‘180ZZF.(1)** A public utility provider may do the following things on light rail land—

- (a) build, replace or take away, or alter, other than for maintenance or repair, its public utility plant;
- (b) maintain or repair, or alter, for maintenance or repair, its public utility plant;
- (c) take reasonable steps to stop obstruction or potential obstruction to, or interference or potential interference with, its public utility plant.

**‘(2)** However, the provider may do things mentioned in subsection (1) only if each light rail authority for the light rail land agrees in writing.

**‘(3)** A light rail authority must not unreasonably withhold agreement.

‘(4) Despite subsection (2), a public utility provider may, if acting in the interests of public safety, carry out urgent maintenance of its public utility plant on light rail land without the written agreement of each light rail authority for the light rail land, but only if the provider—

- (a) makes all reasonable attempts to obtain each authority’s oral agreement to the carrying out of the maintenance; and
- (b) whether or not each authority’s oral agreement is obtained, acts as quickly as possible to advise each authority of the details of the maintenance being carried out.

‘(5) Building or altering public utility plant does not affect the ownership of the plant.

#### **‘Chief executive must give provider information**

‘**180ZZG.** If asked in writing by a public utility provider, the chief executive must give the provider information about lines and levels for planned light rail transport infrastructure on light rail land necessary to enable the provider to minimise possible adverse affects of the establishment of the infrastructure on the provider’s works.

#### **‘Public utility provider to consult with chief executive before replacing public utility plant**

‘**180ZZH.(1)** If a public utility provider proposes to replace the whole or a substantial proportion of its public utility plant on light rail land, the provider must, before seeking written agreement under section 180ZZF, consult with each entity that is a light rail authority for the light rail land.

‘(2) The object of the consultation is to identify mutually beneficial arrangements for the replacement of the public utility plant, having regard to existing development plans for the light rail land.

#### **‘Public utility provider to comply with light rail authority’s agreement**

‘**180ZZI.(1)** This section applies if, in relation to light rail land, a public utility provider does something mentioned in section 180ZZF(1) (the “**relevant action**”)—

- (a) without the written or oral agreement of a light rail authority required under section 180ZZF; or
- (b) in a way inconsistent with an agreement with a light rail authority for the light rail land; or
- (c) in a way inconsistent with a regulation about how things mentioned in section 180ZZF(1) are to be done.

‘(2) If this section applies because of subsection (1)(a) or (b), the light rail authority may, by written notice given to the public utility provider, require the provider, at the provider’s cost, and within the time stated in the notice, to take action to remedy the relevant action.

‘(3) If this section applies because of subsection (1)(c), the chief executive may, by written notice given to the public utility provider, require the provider, at the provider’s cost, and within the time stated in the notice, to take action to remedy the relevant action.

‘(4) The time stated in a notice under subsection (2) or (3) must be a time that is reasonable in the circumstances.

‘(5) If the provider does not comply with the notice, the light rail authority giving the notice to the provider may arrange for action the authority considers necessary to remedy the relevant action.

‘(6) The light rail authority’s reasonable expenses in arranging for the action to be carried out is a debt payable by the provider to the light rail authority.

### **‘Chief executive may require public utility provider to alter position of public utility plant**

‘**180ZZJ.**(1) The chief executive may require a public utility provider to alter the position of the provider’s public utility plant on light rail land if the chief executive considers that the plant will interfere with the exercise of the chief executive’s powers for the light rail land.

‘(2) The chief executive is responsible only for the cost of altering the position of the public utility plant.

**‘Information by public utility provider to chief executive**

**‘180ZZK.(1)** If, in relation to public utility plant on light rail land, a public utility provider does something mentioned in section 180ZZF(1), the provider must prepare records adequately defining the location of the plant.

**‘(2)** A public utility provider owning public utility plant located on light rail land must, if asked by a light rail authority for the light rail land, give the light rail authority information adequately defining the location of the plant.

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

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

**‘180ZZL.(1)** This section applies if—

- (a) a light rail authority for light rail land causes damage to public utility plant located on the light rail land; and
- (b) before the damage was caused, the light rail authority had asked for information under section 180ZZK(2) from the public utility provider owning the public utility plant; and
- (c) the provider had not, within a reasonable time, complied with the request; and
- (d) the damage was caused because of the failure to comply with the request.

**‘(2)** Unless the light rail authority otherwise agrees, the authority is not liable for the damage.

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

**‘180ZZM.(1)** This section applies if—

- (a) a light rail authority for light rail land cause damage to public utility plant located on the light rail land; and
- (b) information supplied to the light rail authority under section 180ZZK(2) did not define in enough detail the location of



the plant; and

- (c) the damage was caused because of the failure to define in enough detail the location of the plant.

‘(2) Unless the light rail authority otherwise agrees, the authority is not liable for the damage.

**‘Liability for damage caused because of failure to comply with light rail authority’s requirements**

‘180ZZN.(1) This section applies if—

- (a) a light rail authority for light rail land causes damage to public utility plant located on the light rail land; and
- (b) the damage was caused because the public utility provider owing the plant did something mentioned in section 180ZZF(1) in relation to the plant other than under the light rail authority’s requirements under this division.

‘(2) Unless the light rail authority otherwise agrees, the authority is not liable for the damage.

**‘Liability of public utility provider to pay additional expenses incurred by light rail authority**

‘180ZZO.(1) This section applies if a light rail authority for light rail land incurs additional expense in carrying out light rail transport infrastructure works on the light rail land because a public utility provider—

- (a) did not supply within a reasonable time information asked for by the authority under section 180ZZK(2); or
- (b) in supplying information to the authority, did not define in enough detail the location of public utility plant; or
- (c) did something mentioned in section 180ZZF(1) in relation to public utility plant other than under the authority’s requirements under this division.

‘(2) The public utility provider is liable to pay the light rail authority the additional expense.

### **‘Replacement or reconstruction of public utility plant**

**‘180ZZP.(1)** If the carrying out of light rail transport infrastructure works by or for a light rail authority for light rail land requires taking away or replacing public utility plant, the light rail authority can not be compelled to replace or reconstruct the plant in its previous location and form.

**‘(2)** If the plant is replaced or reconstructed—

- (a) it must be done under the light rail authority’s requirements; and
- (b) it must be at the authority’s expense, but the cost to the authority of replacement or reconstruction may be reduced by agreement between the authority and the public utility provider owning 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 incurred because of inaccurate information supplied by the provider about the location of the plant; and
  - (iv) additional expense incurred because the plant was not constructed in accordance with the authority’s requirements.

### ***‘Division 4—Use of light rail land***

#### **‘Trespass on light rail land**

**‘180ZZQ.(1)** A person must not be on light rail land if the person does not have the permission of the relevant person for the light rail land to be on the light rail land

Maximum penalty—40 penalty units.

**‘(2)** For subsection (1), permission may be given, for example—

- (a) expressly, by signs, structures, textured pavement or painted lines designating points for vehicles or pedestrians to cross the light rail land; or
- (b) impliedly, by the absence of demarcation between ordinary road

and pavement incorporating light rail track on the light rail land.

‘(3) Subsection (1) does not apply to a person who is on light rail land if, under division 1, the light rail land is taken to be—

- (a) a road of which a local government has control under the *Local Government Act 1993*, section 901(1); or
- (b) a State-controlled road.

‘(4) A regulation may include rules about the use by the following of light rail land—

- (a) light rail vehicles operating on a light rail established on the light rail land;
- (b) persons having the permission of the relevant person for the light rail land to be on the light rail land.

‘(5) In this section—

“**relevant person**”, for light rail land, means—

- (a) if there is a light rail manager for a light rail established on the light rail land—the light rail manager; or
- (b) otherwise—the chief executive.

### *‘Division 5—Compensation entitlements*

#### **‘Definitions for div 5**

‘**180ZZR.** In this division—

“**access**”, for land, means—

- (a) access to the land from the road network, whether or not through other land; or
- (b) access from the land to the road network, whether or not through other land.

“**busway land**” means busway land that, when declared under chapter 7A to be busway land, was a road or part of a road.

“**establishment**”, of light rail transport infrastructure on light rail land,

includes the following—

- (a) initial construction of the light rail transport infrastructure on the light rail land;
- (b) construction for changing or adding to light rail transport infrastructure previously constructed on the light rail land;
- (c) putting in place the arrangements under which persons are permitted or not permitted to be on the light rail land.

**“interference”**, with access, includes loss or reduction of access.

**“light rail land”** means light rail land that, when declared under this chapter to be light rail land, was—

- (a) a road or part of a road; or
- (b) busway land.

#### **‘No entitlement to compensation for particular matters**

**‘180ZZS.(1)** A person having an interest in land (the **“relevant land”**) has no entitlement at law, except to the extent this division provides, to compensation for a matter listed in subsection (2), to the extent the matter is caused by—

- (a) the establishment of a light rail; or
- (b) the establishment or proposed establishment of light rail transport infrastructure on light rail land; or
- (c) the operation of a light rail on light rail land.

**‘(2)** The matters are—

- (a) the adverse affect on the amenity or likely amenity of the neighbourhood of the relevant land; and
- (b) interference with an activity of a business, commercial, industrial or residential nature carried out on the relevant land; and
- (c) loss or damage arising directly or indirectly from interference with access for the relevant land; and
- (d) the reduction or loss of a right of access for the relevant land and

loss or damage caused by the reduction or loss of the right of access.

### **‘Compensation for reduced market value of interest in land**

**‘180ZZT.(1)** A person who has an interest in land (the **“relevant land”**) is entitled to compensation if the establishment of light rail transport infrastructure on light rail land (the **“infrastructure”**), when completed, is a cause of interference (the **“interference”**) with access for the relevant land.

**‘(2)** Subsection (1) applies only if—

(a) either of the following applies—

- (i) the light rail land joins directly with the relevant land or with land (**“access land”**) giving access for the relevant land because of an easement or other right or interest;
- (ii) the light rail land does not join directly with the relevant land or with access land, but it is possible to travel from the relevant land or access land to the light rail land by travelling only over road; and

(b) the practical effect of the interference is substantially greater in nature and extent than the practical effect of interference with access for the relevant land that might reasonably be expected to be experienced from time to time in changes to the operation of the road network; and

(c) the practical effect of the access interference is that there is a direct and substantial interference with practicable access for the relevant land compared with the practicable access existing for the relevant land before the establishment of the infrastructure.

**‘(3)** The amount of the compensation is the amount by which the market value of the interest may fairly be said to have been reduced because of the interference now affecting the relevant land.

**‘(4)** However, the compensation must not be more than the compensation that would have been awarded if the interest had been acquired.

**‘Compensation of person in actual occupation for interference with enjoyment of land**

**‘180ZZU.(1)** A person is entitled to compensation if—

- (a) the person is in actual occupation of land (the **“relevant land”**) when the establishment of light rail transport infrastructure on light rail land (the **“infrastructure”**) is happening or when it is completed; and
- (b) the establishment of the infrastructure is a cause of interference with access (the **“access interference”**) for the relevant land; and
- (c) the access interference is a cause of interference (the **“enjoyment interference”**) with the person’s enjoyment of the relevant land.

**‘(2)** Subsection (1) applies only if—

- (a) either of the following applies—
  - (i) the light rail land joins directly with the relevant land or with land (**“access land”**) giving access for the relevant land because of an easement or other right or interest;
  - (ii) the light rail land does not join directly with the relevant land or with access land, but it is possible to travel from the relevant land or access land to the light rail land by travelling only over road; and
- (b) the practical effect of the access interference is substantially greater in nature and extent than the practical effects of interference with access for the relevant land that might reasonably be expected to be experienced from time to time in changes to the operation of the road network; and
- (c) the practical effect of the access interference is that there is a direct and substantial interference with practicable access for the relevant land compared with the practicable access existing for the relevant land before the infrastructure.

**‘(3)** The amount of compensation is an amount fairly representing, in the particular circumstances—

- (a) if the person is in occupation of the relevant land at any time during the establishment of the infrastructure—the reasonable cost

to the person of the enjoyment interference during the establishment; and

- (b) if the person is in occupation of the relevant land when the establishment of the infrastructure is completed—the reasonable cost to the person of the enjoyment interference, starting from when the establishment of the infrastructure is completed.

‘(4) In calculating the compensation, no regard is to be had to the reduction in the market value of an interest the person may have in the relevant land.

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

‘**180ZZV.(1)** The chief executive may, having regard to the establishment, or proposed establishment, of light rail transport infrastructure on light rail land, enter into an agreement with a person who is the owner or occupier of land (the “**relevant land**”) for—

- (a) the supply by the chief executive, or a contribution by the chief executive towards the supply, of works for alternative access for the relevant land; or
- (b) the carrying out, or a contribution towards the carrying out, of other works in relation to the relevant land for the purpose of access for the land.

‘(2) A person’s entitlement to compensation under this division is reduced to the extent provided for in an agreement under subsection (1).

#### **‘Obtaining compensation**

‘**180ZZW.(1)** A person claiming to be entitled to compensation under this division may apply in writing to the chief executive for the compensation.

‘(2) The application must be made—

- (a) within 12 months after the establishment of light rail transport infrastructure on light rail land giving rise to the claim for compensation; or

(b) within a longer time agreed by the chief executive.

‘(3) If, within 60 days after the person applies under subsection (1), or a longer time agreed between the person and the chief executive, no agreement has been reached between the person and the chief executive on the application—

- (a) the person may apply to the Land Court for the compensation; or
- (b) the chief executive may apply to the Land Court to have the compensation decided by the court.

‘(4) The Land Court has jurisdiction to deal with an application made to it under subsection (3), including jurisdiction to require the chief executive to pay the person compensation decided by the court.

‘(5) Nothing in subsection (2)(a) stops a person from applying for compensation before the establishment of the light rail transport infrastructure is completed if the claim relates to the person’s occupation of land during the establishment of the infrastructure.

## **‘PART 5—ACCREDITATION PROVISIONS FOR LIGHT RAIL**

### **‘Reference to light rail in pt 5**

‘**180ZZX.** In this part, other than in this section, section 180ZZY and section 180ZZZM, a reference to a light rail is a reference to a light rail that is—

- (a) established on light rail land; or
- (b) proposed to be established on light rail land; or
- (c) proposed to be established on land proposed to become light rail land.



**‘Accreditation of managers and operators**

**‘180ZZY.(1)** A person must not manage a light rail on light rail land unless the person is accredited as the light rail manager for the light rail.

Maximum penalty—160 penalty units.

**‘(2)** A person must not operate rolling stock on a light rail on light rail land unless the person is accredited as a light rail operator for the light rail.

Maximum penalty—160 penalty units.

**‘Applications for accreditation**

**‘180ZZZ.** A person may apply to the chief executive for accreditation as—

- (a) the light rail manager for a light rail; or
- (b) a light rail operator for a light rail; or
- (c) the light rail manager and a light rail operator for a light rail.

**‘Additional information for applications**

**‘180ZZZA.(1)** The chief executive may, by written notice, require an applicant to give the chief executive the stated written information the chief executive reasonably requires to consider the application.

**‘(2)** The chief executive may reject the application if the applicant does not comply with the requirement within a stated reasonable time, not less than 28 days, without reasonable excuse.

**‘Giving accreditation**

**‘180ZZZB.(1)** The chief executive must promptly consider an application for accreditation and give, or refuse to give, the accreditation.

**‘(2)** The chief executive must accredit an applicant as the light rail manager for a light rail if satisfied—

- (a) the applicant—
  - (i) is accredited in another State to manage a similar type of

light rail; or

- (ii) has the competency and capacity to manage the light rail safely; and
- (b) the applicant has an appropriate safety management system; and
- (c) the applicant has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the light rail; and
- (d) the applicant has rights of access to all land the applicant needs for the establishment and operation of the light rail; and
- (e) the applicant has rights to the use of all light rail transport infrastructure and other infrastructure the applicant needs for the establishment and operation of the light rail.

‘(3) The chief executive must accredit an applicant as a light rail operator for a light rail if satisfied—

- (a) the applicant—
  - (i) is accredited in another State to operate rolling stock on a light rail for a similar type of service; or
  - (ii) has the competency and capacity to operate rolling stock on the light rail safely; and
- (b) the applicant has an appropriate safety management system; and
- (c) the applicant has the financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for the light rail; and
- (d) the applicant has or will have an agreement with the light rail’s manager that—
  - (i) authorises the applicant to operate particular rolling stock on the light rail; and
  - (ii) includes appropriate arrangements for the safe operation of the rolling stock.

‘(4) Subsection (3)(d) does not apply if the applicant is applying for accreditation as both the light rail manager and the light rail operator for the light rail.

‘(5) In considering a safety management system, the chief executive must consider—

- (a) what the applicant proposes for the light rail; and
- (b) the appropriateness of the safety management system for what the applicant proposes; and
- (c) the safety levels achievable, consistent with the nature of what the applicant proposes, at a reasonable cost; and
- (d) the need for efficient and competitive light rail transport services; and
- (e) consistency with generally accepted risk management principles; and
- (f) the levels of safety proposed compared with the levels of safety of competing transport modes.

‘(6) Subsection (5) does not limit what the chief executive may consider in considering a safety management system.

‘(7) If the chief executive decides to give the accreditation, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the details of the accreditation, including its scope; and
- (c) if the accreditation is given on conditions—
  - (i) the details of the conditions; and
  - (ii) the reason for the conditions.

‘(8) If the chief executive decides not give the accreditation, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the reason for the decision.

‘(9) A written notice given under subsection (7) or (8) must be accompanied by an information notice for the decision the subject of the notice.

### **‘Annual levy**

**‘180ZZZC.(1)** A regulation may impose levies on light rail managers and operators for light rail relating to their accreditation on a basis prescribed under the regulation.

**‘(2)** The chief executive must give each light rail manager and light rail operator for a light rail written notice of the amount of a levy applying to the manager or operator.

**‘(3)** The chief executive may recover the amount of a levy as a debt owed to the chief executive.

### **‘Accreditation conditions**

**‘180ZZZD.(1)** An accreditation may be subject to conditions.

**‘(2)** For the accreditation of a person as the light rail manager for a light rail, a condition must be about—

- (a) constructing or maintaining the light rail; or
- (b) managing the light rail safely, considering the need for efficient and competitive services.

**‘(3)** For the accreditation of a person as a light rail operator for a light rail, a condition must be about—

- (a) operating rolling stock safely, considering the need for efficient and competitive services; or
- (b) the person having an agreement with the light rail’s manager that—
  - (i) authorises the person to operate particular rolling stock on the light rail; and
  - (ii) includes appropriate arrangements for the safe operation of the rolling stock.

**‘(4)** However, for either type of accreditation, a condition may also be about—

- (a) the person’s financial capacity or public risk insurance arrangements to meet reasonable potential accident liabilities for

the light rail; or

- (b) paying accreditation fees; or
- (c) something else prescribed under a regulation.

‘(5) An accredited person must comply with each condition of the person’s accreditation.

Maximum penalty for subsection (5)—40 penalty units.

#### **‘Requiring accreditation conditions to be complied with**

‘**180ZZZE.(1)** This section applies if the chief executive reasonably believes an accredited person has not complied with a condition of the person’s accreditation.

‘(2) The chief executive may, by written notice, require the person to remedy the breach within a reasonable period stated in the notice.

‘(3) If the person has not complied with the condition of the person’s accreditation, the person must comply with the notice.

Maximum penalty for subsection (3)—60 penalty units.

#### **‘Accreditation period**

‘**180ZZZF.** An accreditation remains in force until it is suspended, cancelled or surrendered.

#### **‘Amending accreditation conditions on application**

‘**180ZZZG.(1)** An accredited person may apply to the chief executive for an amendment of the conditions of the person’s accreditation.

‘(2) The chief executive must consider the application and decide whether to make the amendment.

‘(3) The chief executive may amend a condition only if satisfied the condition is—

- (a) no longer appropriate; or
- (b) no longer consistent with generally accepted risk management

principles.

‘(4) If the chief executive decides to amend a condition, the chief executive must promptly give the applicant a written notice stating the decision and the amendment.

‘(5) If the chief executive decides not to amend a condition, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the reason for the decision.

‘(6) A written notice given under subsection (5) must be accompanied by an information notice for the decision the subject of the notice.

‘(7) If the chief executive does not decide the application within 70 days after it is made, the chief executive is taken to have made the amendment sought by the accredited person at the end of the 70 days.

#### **‘Amending accreditation conditions without application**

‘**180ZZZH.(1)** This section applies if the chief executive considers the conditions of a person’s accreditation should be amended but the person has not applied for the proposed amendment.

‘(2) Before amending the conditions, the chief executive must give the person a written notice—

- (a) stating the proposed amendment; and
- (b) stating the reason for the proposed amendment; and
- (c) inviting the person to show, within a stated time of at least 28 days, why the proposed amendment should not be made.

‘(3) If, after considering all written representations made within the stated time, the chief executive still considers the conditions should be amended, the chief executive may amend the conditions—

- (a) in the way proposed; or
- (b) in another way, having regard to the representations.

‘(4) The chief executive must inform the person of the decision by written notice.

‘(5) If the chief executive decides to amend the conditions, the notice must also state—

- (a) the amendment; and
- (b) the reason for the decision.

‘(6) A written notice given under subsections (4) and (5) must be accompanied by an information notice for the decision the subject of the notice.

‘(7) Subsections (2) to (5) do not apply if the chief executive proposes to amend the conditions of a person’s accreditation for a formal or clerical reason not adversely affecting the person’s interests.

‘(8) The chief executive may amend a condition in a way mentioned in subsection (7) by written notice given to the person.

### ‘**Suspending or cancelling accreditation**

‘**180ZZZI.(1)** This section applies if the chief executive—

- (a) reasonably suspects an accredited person has not complied with a condition of the person’s accreditation; and
- (b) considers the person’s accreditation should be suspended or cancelled (the “**proposed action**”).

‘(2) Before taking the proposed action, the chief executive must give the person a written notice—

- (a) stating the proposed action; and
- (b) stating the reason for the proposed action; and
- (c) if the proposed action is suspension of the accreditation, stating the proposed suspension period; and
- (d) if the proposed action is a limited suspension of the accreditation,<sup>7</sup> stating the details of the proposed limitation; and
- (e) inviting the person to show, within a stated time of at least 28 days, why the proposed action should not be taken.

---

<sup>7</sup> See section 180ZZZK (Limited suspension of accreditation).

‘(3) If, after considering all written representations made within the stated time, the chief executive still considers the proposed action should be taken, the chief executive may—

- (a) if the proposed action is to suspend the accreditation—suspend the accreditation—
  - (i) for no longer than the proposed suspension period; and
  - (ii) if the proposed action was a limited suspension, by no more than the proposed limitation; or
- (b) if the proposed action was to cancel the accreditation—cancel the accreditation or suspend it for a period.

‘(4) The chief executive must inform the person of the decision by written notice.

‘(5) If the chief executive decides to suspend or cancel the accreditation, the notice must also state the reason for the decision.

‘(6) The chief executive may immediately cancel the accreditation by written notice given to the person if—

- (a) rather than cancel the accreditation, the chief executive has suspended it on condition the person do certain things to rectify the failure to comply with a condition of the person’s accreditation; but
- (b) the person has not rectified the failure within the suspension period.

‘(7) The notice must state the reason for the decision.

‘(8) A written notice given under subsection (4) or (6) must be accompanied by an information notice for the decision the subject of the notice.

### **‘Immediate suspension of accreditation**

‘180ZZZJ.(1) This section applies if the chief executive—

- (a) reasonably believes an accredited person has not complied with a condition of the person’s accreditation; and



(b) considers members of the public may be seriously harmed if urgent action to suspend the accreditation is not taken.

‘(2) The chief executive may immediately suspend an accreditation by written notice given to the person.

‘(3) The notice must state the reason for the decision and must be accompanied by an information notice for the decision.

‘(4) The chief executive must at the same time give the person a notice under section 180ZZZI(2).<sup>8</sup>

‘(5) The accreditation is suspended under this section until the earlier of the following—

- (a) the chief executive gives the person notice of the chief executive’s decision under section 180ZZZI;
- (b) the end of 60 days after the notice under subsection (2) was given to the person.

#### **‘Limited suspension of accreditation**

‘**180ZZZK.** Under section 180ZZZI or 180ZZZJ, the chief executive may limit a suspension to, for example—

- (a) a particular light rail for which the accredited person is accredited;  
or
- (b) a particular service operated by the accredited person.

#### **‘Surrender of accreditation**

‘**180ZZZL.** An accredited person may, at any time, surrender the person’s accreditation by written notice given to the chief executive.

#### **‘Accreditation for proposed light rail**

‘**180ZZZM.(1)** This section applies if—

---

<sup>8</sup> Section 180ZZZI (Suspending or cancelling accreditation)

- (a) a person holds an accreditation under this part as the light rail manager, a light rail operator, or the light rail manager and a light rail operator, for a light rail—
  - (i) proposed to be established on light rail land; or
  - (ii) proposed to be established on land proposed to become light rail land; and
- (b) the light rail is established on light rail land substantially in the way proposed.

‘(2) The accreditation automatically becomes an accreditation under this Act that the person holds as the light rail manager, a light rail operator, or the light rail manager and a light rail operator, for the light rail as established.

## ‘PART 6—LIGHT RAIL INCIDENTS

### ‘Application of ch 6, pt 6 and other provisions

‘180ZZZN.(1) Chapter 6, part 6<sup>9</sup> applies for a light rail in the same way it applies for a railway.

‘(2) For applying chapter 6, part 6 for a light rail—

- (a) a reference to a railway is taken to be a reference to a light rail; and
- (b) a reference to an accredited person is taken to be a reference to an accredited person for this chapter; and
- (c) a reference to an authorised person for a railway is taken to be a reference to a person who is an authorised person for the light rail.

---

<sup>9</sup> Chapter 6 (Rail transport infrastructure), part 6 (Railway incidents)

---

## **‘CHAPTER 7C—INVESTIGATING POTENTIAL BUSWAY OR LIGHT RAIL**

### **‘Purpose of ch 7C**

**‘180ZZZO.** The purpose of this chapter is—

- (a) to allow persons authorised by the chief executive to enter land to investigate the land’s potential and suitability for the development of busway or light rail transport infrastructure (the **“development”**) before powers under chapter 7A or 7B are exercised; and
- (b) to safeguard the interests of the owners and occupiers of land affected by the entry.

### **‘Definitions for ch 7C**

**‘180ZZZP.** In this chapter—

**“affected person”** for land, means each person who is an owner or occupier of the land.

**“associated person”**, of an investigator, means any of the following—

- (a) if the investigator is a corporation, the corporation’s chief executive, secretary or directors;
- (b) the investigator’s employees or partners who are individuals;
- (c) a person who is an agent of, or contractor for, the investigator, and engaged in writing for the investigator’s authority;
- (d) employees of an agent or contractor mentioned in paragraph (c);
- (e) if a person mentioned in paragraph (c) is a corporation, the corporation’s chief executive, secretary, directors or employees.

**“compensation notice”** see section 180ZZZY.

**“development”** see section 180ZZZO.

**“investigator”** means a person who holds an investigator’s authority.

**“investigator’s authority”** means an investigator’s authority given under

this chapter.

“**rectification notice**” see section 180ZZZY.

### **‘How to apply for investigator’s authority**

**‘180ZZZQ.(1)** This section applies if the person proposing the development can not successfully negotiate entry to the land with all affected persons for the land.

**‘(2)** The person may apply to the chief executive for an investigator’s authority for the land.

**‘(3)** The applicant must give the chief executive the following in support of the application—

- (a) details of the proposed development, including the land on which the development is proposed to be located;
- (b) the likely demand for the services associated with the proposed development;
- (c) advice as to how the proposed development would satisfy an identified need;
- (d) details of the applicant’s financial and technical capacity to establish the proposed development;
- (e) details of the steps the applicant has taken, or tried to take, to satisfy its obligations under subsection (1);
- (f) all other information the chief executive considers is necessary to assess the application.

**‘(4)** The application must be in writing and state the following information—

- (a) the land intended to be entered under the investigator’s authority;
- (b) the purpose for which the authority is sought;
- (c) details of the nature of the activities proposed to be conducted on the land;
- (d) the period for which the authority is sought.

‘(5) The chief executive must advise the affected persons for the land—

- (a) that an application for an investigator’s authority has been made for the land; and
- (b) the powers a person given an authority may exercise under this division.

#### **‘Additional information about application**

‘**180ZZZR.(1)** Before deciding the application, the chief executive—

- (a) must consult with the affected persons for the land about the proposed entry to the land; and
- (b) may require the applicant to give additional information about the proposed entry.

‘(2) The chief executive may reject the application if the applicant fails, without reasonable excuse, to give the additional information within a stated reasonable time of not less than 28 days.

#### **‘Giving investigator’s authority**

‘**180ZZZS.(1)** The chief executive may—

- (a) give an investigator’s authority, with or without conditions; or
- (b) refuse to give the authority.

‘(2) If the chief executive refuses to give the investigator’s authority, the chief executive must give the applicant written reasons for the refusal.

‘(3) Without limiting subsection (1)(a), a condition may require lodging a bond or security deposit with the chief executive.

‘(4) The investigator’s authority must be only for the part of the land the chief executive is satisfied is reasonably necessary for conducting the investigations.

#### **‘Investigator’s authority**

‘**180ZZZT.(1)** The investigator’s authority must be in writing stating the

following—

- (a) the land to which it applies;
- (b) the purpose for which it is given;
- (c) when it ends;
- (d) all conditions imposed on the authority.

‘(2) The investigator’s authority authorises the investigator and associated persons of the investigator—

- (a) to enter and re-enter land the subject of the authority for investigating the land’s potential and suitability for the development; and
- (b) to the extent reasonably necessary or convenient for the purpose—
  - (i) to do anything on the land; or
  - (ii) to bring anything onto the land; or
  - (iii) to temporarily leave machinery, equipment or other items on the land.

*Examples of actions authorised by the investigator’s authority—*

1. To conduct surveys, investigate and take samples.
2. To clear vegetation, or otherwise disturb the land, to the extent reasonably necessary.
3. To construct temporary access tracks using the land or using materials brought onto the land.

‘(3) It is declared that—

- (a) the giving of the investigator’s authority is not an indication of a commitment or approval by the State, the chief executive or anyone else to any proposal, and in particular, does not commit the State to acquiring land for the development; and
- (b) a person is not an employee or agent of the State only because the person is an investigator.

‘(4) The investigator’s authority does not authorise entering or doing anything to a structure on the land used solely for residential purposes

without the permission of the occupier of the land.

‘(5) The investigator and each associated person of the investigator, must comply with each condition of the authority, unless the investigator or associated person has a reasonable excuse.

Maximum penalty for subsection (5)—200 penalty units.

**‘What investigator must do before land is entered for the first time**

‘**180ZZZU.(1)** Before land is entered for the first time under the investigator’s authority, the investigator must give a written notice to the affected persons for the land together with a copy of the authority.

‘(2) The notice must state the following—

- (a) the investigator has been given the investigator’s authority;
- (b) the things the investigator and associated persons of the investigator are authorised to do under the authority;
- (c) a general outline of the things intended to be done on the land, including the construction of any temporary access track;
- (d) the approximate period during which the land is to be entered under the authority;
- (e) the rights of the affected persons under this chapter for the rectification of, and to compensation for, loss or damage suffered because of the investigation;
- (f) the giving of the authority is not an indication of a commitment or approval by the State, the chief executive or anyone else in relation to any proposal, and in particular, does not commit the State to acquiring land for the development.

‘(3) The investigator or an associated person of the investigator may enter the land only if—

- (a) the affected persons give written consent to the entry; or
- (b) at least 7 days have passed since the notice was given.

**‘Investigator to issue associated person with identification**

**‘180ZZZV.(1)** Before the investigator allows an associated person of the investigator to act under the investigator’s authority, the investigator must give the associated person an identification document in the approved form.

Maximum penalty—10 penalty units.

**‘(2)** The identification document must—

- (a) state the names of the investigator and the person to whom the identification document is given; and
- (b) indicate that, for this Act, the person is associated with the holder of the investigator’s authority; and
- (c) state the capacity in which the associated person is an associated person; and
- (d) be signed by or for the investigator; and
- (e) be signed by or for the associated person; and
- (f) state when it ends.

**‘(3)** A person who stops being an associated person of an investigator must return the person’s identification document to the investigator as soon as practicable, but within 21 days, after the person stops being an associated person, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

**‘(4)** Subsections (5) and (6) apply if a person who claims to be, or appears to be, an affected person for the land asks an individual who has entered, is entering or is about to enter land under the investigator’s authority—

- (a) for identification; or
- (b) about the person’s authority to enter the land.

**‘(5)** If the request is made of an investigator, the investigator must immediately state the investigator’s name and show the person a copy of the investigator’s authority.

Maximum penalty—10 penalty units.

**‘(6)** If the request is made of an associated person of the investigator, the



associated person must immediately state his or her name and show the other person the associated person's identification document.

Maximum penalty for subsection (6)—10 penalty units.

#### **'Pretending to be an investigator or associated person**

**'180ZZZW.** A person must not pretend to be an investigator or an associated person of an investigator.

Maximum penalty—80 penalty units.

#### **'Investigator to take care in acting under investigator's authority**

**'180ZZZX.** The investigator and all associated persons of the investigator—

- (a) must take as much care as is practicable to minimise damage to the land or inconvenience to the affected persons for the land; and
- (b) may do anything necessary or desirable to minimise the damage or inconvenience.

#### **'Rectification of damage by investigator**

**'180ZZZY.(1)** An affected person for the land may, by written notice ("**rectification notice**") given to the investigator, require the investigator, within a reasonable time after the investigator has finished investigating the land under the investigator's authority, to rectify loss or damage suffered by the affected person arising out of—

- (a) the investigator entering the land; or
- (b) use made of the land by the investigator; or
- (c) anything brought onto the land by the investigator; or
- (d) anything done or left on the land while the investigator was on the land under, or purportedly under, the investigator's authority.

**'(2)** If the loss or damage mentioned in subsection (1) is not rectified or can not be rectified, the affected person may, by written notice ("**compensation notice**") given to the investigator, claim compensation for

the loss or damage not rectified.

‘(3) A rectification or compensation notice must be given—

- (a) within 1 year after the loss or damage was suffered; or
- (b) at a later time allowed by the Land Court.

‘(4) The claim for compensation may be made—

- (a) whether or not the act or omission giving rise to the claim was authorised under the investigator’s authority; and
- (b) whether or not the investigator took steps to prevent the loss or damage; and
- (c) even though the loss or damage was caused, or contributed to, by an associated person of the investigator.

‘(5) In subsection (1)—

“investigator” includes an associated person of the investigator.

#### **‘Compensation payable by investigator**

‘**180ZZZZ.(1)** The investigator must compensate each affected person for the land for the loss or damage the affected person has suffered and that has not been rectified.

‘(2) The amount of compensation is—

- (a) the amount agreed between the parties; or
- (b) if the parties can not agree on the amount within a reasonable time, the amount decided by the Land Court.

#### **‘Release of bond or security deposit**

‘**180ZZZZA.(1)** This section applies if, under a condition of the investigator’s authority, a bond or security deposit is required to be lodged with the chief executive.

‘(2) If an affected person for the land does not give a rectification or compensation notice within the prescribed time, the chief executive may keep the bond or security deposit until 1 year after the investigator’s

authority expires.

‘(3) If an affected person for the land gives a rectification or compensation notice within the prescribed time, the chief executive may keep the bond or security deposit until the chief executive is satisfied the damage or loss has been repaired or rectified or any compensation agreed or awarded for the damage or loss has been paid to the affected person.

‘(4) In this section—

“**prescribed time**”, for giving a rectification or compensation notice arising out of the entry of land by the investigator, means 1 year after the investigator was last on the land under, or purportedly under, the investigator’s authority.

#### ‘Use of bond or security deposit to repair or rectify

‘**180ZZZZB.(1)** This section applies if—

- (a) under a condition of the investigator’s authority, a bond or security deposit is required to be lodged with the chief executive; and
- (b) an affected person for the land gives a rectification or compensation notice within the prescribed time; and
- (c) the chief executive is satisfied the damage or loss has not been repaired or rectified or compensation agreed or awarded for the damage or loss has not been paid to the affected person.

‘(2) The chief executive—

- (a) may use the bond or security deposit to repair or rectify the damage or loss or pay the compensation; and
- (b) must pay the balance, if any, to the investigator.

‘(3) In this section—

“**prescribed time**”, for giving a rectification or compensation notice arising out of the entry of land by the investigator, means 1 year after the investigator was last on the land under, or purportedly under, the investigator’s authority.’.

---

**Amendment of s 181A (Meaning of “miscellaneous transport infrastructure”)**

**14.** Section 181A—

*insert—*

‘(3) Also, busway transport infrastructure and light rail transport infrastructure are not miscellaneous transport infrastructure.’.

**Insertion of new s 200A**

**15.** Chapter 9—

*insert—*

**‘Numbering and renumbering of Act**

‘**200A.** In the next reprint of this Act produced under the *Reprints Act 1992*, the provisions of this Act must be numbered and renumbered as permitted by the *Reprints Act 1992*, section 43.’.

**Amendment of s 215 (Boundary identification etc.)**

**16.** Section 215(1)(b)(i), ‘and’—

*omit, insert—*

‘or’.

**Amendment of sch 1 (Subject matter for regulations)**

**17.** Schedule 1, item 11—

*omit, insert—*

‘**11.** Regulation of—

- (a) busway, light rail or miscellaneous transport infrastructure; or
- (b) busway, light rail or miscellaneous transport infrastructure works.’.

## **Amendment of sch 2 (Appeals)**

### **18. Schedule 2—**

*insert—*

‘180F(3)(b)	Refusal to allow later time to give notice for compensation	Magistrates
180X	Requirement by chief executive about public utility plant on busway land	District
180ZC	Decision of chief executive about amount of additional expense	District or Magistrates
180ZQ(3)(b)	Refusal to allow later time to give notice for compensation	Magistrates
180ZZJ	Requirement by chief executive about public utility plant on light rail land	District
180ZZO	Decision of chief executive about amount of additional expense	District or Magistrates
180ZZZB	Giving accreditation on conditions	District
180ZZZB	Refusal to give accreditation	District
180ZZZG(2)	Refusal to amend accreditation conditions	District or Magistrates

---

180ZZZH(3)	Amendment of accreditation conditions	District or Magistrates
180ZZZH(8)	Amendment of accreditation conditions	District or Magistrates
180ZZZI(3)	Suspension or cancellation of accreditation	District or Magistrates
180ZZZI(6)	Immediate cancellation of accreditation	District or Magistrates
180ZZZJ(2)	Immediate suspension of accreditation	District or Magistrates’.

### **Amendment of sch 3 (Dictionary)**

**19.(1)** Schedule 3, definitions “**accredited person**”, “**associated person**”, “**authorised person**”, “**construction**”, “**investigator**”, “**plant**”, “**railway**” and “**road**”—

*omit.*

**(2)** Schedule 3—

*insert—*

“**access**” for—

- (a) chapter 7A, part 4, division 5—see section 180ZF; or
- (b) chapter 7B, part 4, division 5—see section 180ZZR.

“**accredited person**” means—

- (a) for chapter 6—a railway manager or operator for whom an accreditation is in force under the chapter; or
- (b) for chapter 7B—a light rail manager or operator for a light rail for whom an accreditation is in force under the chapter.

“**acquire**”, for chapter 7A, part 3 and chapter 7B, part 3, includes acquire

---

by gift, exchange or purchase.

**“affected person”**, for chapter 7C, see section 180ZZZP.

**“approved form”** see section 199A.

**“associated person”** for—

- (a) chapter 6, part 2—see section 77; or
- (b) chapter 7C—see section 180ZZZP.

**“authorised person”**, for a railway or light rail, means a person who is an authorised person for the railway or light rail under the *Transport Operations (Passenger Transport) Act 1994*, section 116.

**“busway”** means—

- (a) a route especially designed and constructed for, and dedicated to, the priority movement of buses for passenger transport purposes; and
- (b) places for the taking on and letting off of bus passengers using the route.

**“busway land”**—

1. “Busway land” means land declared to be busway land under chapter 7A.
2. Additionally, the following apply—
  - (a) for chapter 7A, part 4, division 3, see section 180R;
  - (b) for chapter 7A, part 4, division 5, see section 180ZF;
  - (c) for chapter 7B, part 4, division 3, see section 180ZZD;
  - (d) for chapter 7B, part 4, division 5, see section 180ZZR.

**“busway transport infrastructure”** means each of the following—

- (a) the pavement on which buses run for a busway;
- (b) the stations for operating a busway;
- (c) other facilities necessary for managing or operating a busway, including for example—
  - (i) infrastructure put in place for the busway, including the

following—

- support earthworks
  - cuttings
  - drainage works
  - excavations
  - land fill; and
- (ii) the following things, if associated with the busway's operation—
- access or service lanes
  - bridges, including bridges over water
  - busway operation control facilities
  - communication systems
  - depots
  - machinery and other equipment
  - noise barriers
  - notice boards, notice markers and signs
  - office buildings
  - passenger interchange facilities between the busway and other modes of transport
  - platforms
  - power and communication cables
  - signalling facilities and equipment
  - survey stations, pegs and marks
  - ticketing equipment
  - tunnels
  - under-busway structures
  - workshops;



- (d) vehicle parking and set down facilities for intending passengers for a busway;
- (e) pedestrian facilities, including paving of footpaths, for a busway;
- (f) landscaping or associated works for a busway.

**“busway transport infrastructure works”** means works done for—

- (a) constructing busway transport infrastructure or things associated with busway transport infrastructure; or
- (b) the maintenance of busway transport infrastructure or of things associated with busway transport infrastructure; or
- (c) facilitating the operation of busway transport infrastructure or things associated with busway transport infrastructure.

**“compensation notice”**, for chapter 7C, see section 180ZZZY.

**“construction”** for—

- (a) chapter 5—see section 22; or
- (b) chapter 7A—see section 180A; or
- (c) chapter 7B—see section 180ZL.

**“development”**, for chapter 7C, see section 180ZZZP.

**“establishment”** for—

- (a) chapter 7A, part 4, division 5—see section 180ZF; or
- (b) chapter 7B, part 4, division 5—see section 180ZZR.

**“information notice”**, for a decision the subject of a written notice given to a person, is a written notice stating that the person may—

- (a) under section 196, ask for the decision to be reviewed and appeal against the reviewed decision; and
- (b) under the *Transport Planning and Coordination Act 1994*, part 5, ask for the decision or the reviewed decision to be stayed.

**“interference”** for—

- (a) chapter 7A, part 4, division 5—see section 180ZF; or
- (b) chapter 7B, part 4, division 5—see section 180ZZR.

**“investigator”** means—

- (a) other than for chapter 7C—a person who holds an authority; or
- (b) for chapter 7C—a person who holds an investigator’s authority under that chapter.

**“investigator’s authority”**, for chapter 7C, see section 180ZZZP.

**“light rail”** means—

- (a) a route especially designed and constructed for, and wholly or partly dedicated to, the priority movement of light rail vehicles for passenger transport purposes, and
- (b) places for the taking on and letting off of light rail vehicle passengers using the route.

**“light rail authority”**, for chapter 7B, part 4, division 3, see section 180ZZD.

**“light rail land”**—

1. “Light rail land” means land declared to be light rail land under chapter 7B.
2. Additionally, the following apply—
  - (a) for chapter 7B, part 4, division 3, see section 180ZZD;
  - (b) for chapter 7B, part 4, division 5, see section 180ZZR.

**“light rail manager”**, for a light rail, means a person who holds an accreditation under chapter 7B, part 5 as the light rail manager for the light rail.

**“light rail operator”**, for a light rail, means a person who holds an accreditation under chapter 7B, part 5 as a light rail operator for the light rail.

**“light rail transport infrastructure”** means each of the following—

- (a) the rails on which light rail vehicles run for a light rail and pavement incorporating the rails;
- (b) the stations for operating a light rail;
- (c) other facilities necessary for managing or operating a light rail,

including, for example—

- (i) works built for the light rail, including the following—
  - cuttings
  - drainage works
  - excavations
  - land fill
  - track support earthworks; and
- (ii) light rail vehicles that operate on a light rail; and
- (iii) the following things if they are associated with the light rail's operation—
  - access or service lanes
  - bridges, including bridges over water
  - communication systems
  - light rail operation control facilities
  - machinery and other equipment
  - maintenance depots
  - marshalling yards
  - noise barriers
  - notice boards, notice markers and signs
  - office buildings
  - overhead electrical power supply systems and support structures
  - over-track structures
  - passenger interchange facilities between light rail and other modes of transport
  - platforms
  - power and communication cables
  - power supply substations and equipment

- 
- signalling facilities and equipment
  - survey stations, pegs and marks
  - tunnels
  - ticketing equipment
  - under-track structures
  - workshops;
- (d) vehicle parking and set down facilities for intending passengers for a light rail;
- (e) pedestrian facilities, including paving of footpaths, for a light rail;
- (f) landscaping or associated works for a light rail.

**“light rail transport infrastructure works”** means works done for—

- (a) constructing light rail transport infrastructure or things associated with light rail transport infrastructure; or
- (b) the maintenance of light rail transport infrastructure or of things associated with light rail transport infrastructure; or
- (c) facilitating the operation of light rail transport infrastructure or things associated with light rail transport infrastructure.

**“light rail vehicle”** means a type of transport that—

- (a) is intended wholly or mainly for the carriage of passengers or for track maintenance; and
- (b) travels on flanged wheels on parallel rails; and
- (c) is designed to operate in line of sight on road-like areas.

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

- (a) a conduit or cable;
- (b) an electrical installation under the *Electricity Act 1994*;
- (c) an overhead conveyor;
- (d) a pipeline;
- (e) a pole;

- (f) a railway, monorail or tramway;
- (g) a telecommunications plant;
- (h) a viaduct or aqueduct;
- (i) a water channel.

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

**“public utility provider”** means an entity that owns public utility plant.

**“railway”** does not include a light rail or light rail transport infrastructure, and for chapter 6, part 4, see also section 80.

**“rectification notice”**, for chapter 7C, see section 180ZZZY.

**“road”**—

- (a) for chapter 7A, part 3, has the meaning given in section 180G; and
- (b) for chapter 7B, part 3, has the meaning given in section 180ZR; and
- (c) does not include an area or thing that is busway land, busway transport infrastructure, light rail land or light rail transport infrastructure; and
- (d) subject to paragraphs (a) to (c), means—
  - (i) an area of land dedicated to public use as a road; or
  - (ii) 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
  - (iii) a bridge, culvert, ferry, ford, tunnel or viaduct; or
  - (iv) a pedestrian or bicycle path; or
  - (v) a part of an area, bridge, culvert, ferry, ford, tunnel, viaduct or path mentioned in subparagraphs (i) to (iv).’

(3) Schedule 3, definition **“land”**, paragraph (a), ‘chapters 5 and 8’—  
*omit, insert—*

‘chapters 5 and 7A to 8’.

(4) Schedule 3, definition “**land**”, paragraph (c), ‘chapter 8’—  
*omit, insert—*

‘chapters 7A to 8’.

(5) Schedule 3, definition “**occupier**”, ‘chapters 5, 6 and 8’—  
*omit, insert—*

‘chapters 5, 6, 7A, 7B, 7C and 8’.

(6) Schedule 3, definition “**rolling stock**”, after ‘train’—  
*insert—*

‘or light rail vehicle’.

(7) Schedule 3, definition “**rolling stock**”, after ‘railway’—  
*insert—*

‘or light rail’.

(8) Schedule 3, definition “**transport infrastructure**”, after ‘port’—  
*insert—*

‘, busway, light rail’.

## **PART 3—AMENDMENT OF TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994**

### **Act amended in pt 3**

**20.** This part amends the *Transport Operations (Passenger Transport) Act 1994*.

### **Amendment of ch 11, pt 2 hdg**

**21.** Chapter 11, part 2, heading, after ‘**RAILWAYS**’—

---

*insert—*

**‘OR LIGHT RAIL’.**

**Amendment of s 116 (Appointment of authorised persons for railways)**

**22.(1)** Section 116, heading, after **‘railways’**—

*insert—*

**‘or light rail’.**

**(2)** Section 116(2), **‘for the railway’**—

*omit, insert—*

**‘for a railway’.**

**(3)** Section 116—

*insert—*

**‘(2A)** The chief executive may appoint a person to be an authorised person for a light rail.’.

**(4)** Section 116(3), **‘for the railway’**—

*omit, insert—*

**‘for a railway or light rail’.**

**(5)** Section 116(4), after **‘authorised person’**—

*insert—*

**‘for a railway or light rail’.**

**(6)** Section 116(5), after **‘the railway’**—

*insert—*

**‘or light rail’.**

**Amendment of s 117 (Identity cards)**

**23.(1)** Section 117—

*insert—*

---

‘(2B) The chief executive must give an identity card to each person appointed as an authorised person for a light rail under section 116(2A).’.

(2) Section 117(3)(c), after ‘railway’—

*insert—*

‘or light rail’.

(3) Section 117—

*insert—*

‘(4A) A person who stops being an authorised person for a light rail must return the person’s identity card to the chief executive as soon as practicable, but within 21 days, after the person stops being an authorised person for the light rail, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.’.

### **Amendment of s 118 (Producing or displaying authorised person’s identity card)**

24. Section 118(2), after ‘for a railway’—

*insert—*

‘or light rail’.

### **Amendment of s 119 (Protection from liability)**

25.(1) Section 119(1), definition “official”, paragraph (a), after ‘for a railway’—

*insert—*

‘or light rail’.

(2) Section 119(3)(a), after ‘authorised person’—

*insert—*

‘is an authorised person for a railway and’.



---

**Omission of s 136 (Impersonation of authorised person)**

**26.** Section 136 (as enacted in Act No. 43 of 1994 as section 132 and subsequently renumbered)—

*omit.*

**Insertion of new pt hdg**

**27.** Chapter 12, before section 143B—

*insert—*

**‘PART 1—GENERAL’.****Insertion of new ch 12, pt 2 and new pt hdg**

**28.** Chapter 12, after section 154A—

*insert—*

**‘PART 2—AUTHORISATIONS FOR COMPETITION  
LEGISLATION*****‘Division 1—Interpretation*****‘Definitions for pt 2**

**‘154B.** In this part—

**“Competition Code”** means the Competition Code under the *Competition Policy Reform (Queensland) Act 1996*.

---

**“competition legislation”** means TPA, section 51(1)(b)<sup>10</sup> or the Competition Code, section 51.<sup>11</sup>

**“fare”**, in relation to a public passenger service, means—

- (a) the price payable for use of the service; or
- (b) the provisions of, or arrangements for, a discount, allowance, rebate or credit applying in relation to the price payable for use of the service.

**“fare provision”** see section 154C.

**“identified provision”** see section 154D.

**“management entity”** means—

- (a) the State; or
- (b) a State influenced entity.

**“management entity provision”** see section 154E.

**“service entity”** means an entity that provides or proposes to provide 1 or more public passenger services in Queensland as an operator.

**“service entity provision”** see section 154F.

**“service equipment”**, for a public passenger service, means any of the following used in operating the service—

- (a) facilities, including ticketing systems, network monitoring systems, communications equipment and timing systems;
- (b) infrastructure, including tunnels, stations, parking facilities and passenger interchanges;
- (c) goods or services related to something mentioned in paragraph (a)

---

<sup>10</sup> *Trade Practices Act 1974* (Cwlth), section 51 (Exceptions)

<sup>11</sup> The Competition Code, section 51 states that in deciding whether a person has contravened the Code, Part IV, certain things must be disregarded. Section 51(1) of the Code provides that the following must be disregarded—

‘(a)...

(b) anything done in a State, if the thing is specified in, and specifically authorised by:

- (i) an Act passed by the Parliament of that State; or
- (ii) regulations made under such an Act.’

or (b).

“**State influenced entity**” see section 154G.

“**TPA**” means the *Trade Practices Act 1974* (Cwlth).

### ‘**Meaning of “fare provision”**’

‘**154C.(1)** For this part, a “**fare provision**” is a provision about a fare (the “**relevant fare**”) applying for a public passenger service of 1 or more service entities.

‘**(2)** However, a provision is a “**fare provision**” only if—

- (a) the provision has the purpose, or has or is likely to have the effect, of—
  - (i) fixing, controlling or maintaining the fare; or
  - (ii) providing for the fixing, controlling or maintaining of the fare; and
- (b) the provision is negotiated and agreed to in the context of a contract, arrangement or understanding for coordinating or integrating public passenger services; and
- (c) at any particular time the provision is given effect to, the relevant fare is consistent with any model fare structure arrangement that—
  - (i) has been approved by the chief executive; and
  - (ii) has been published in the gazette; and
  - (iii) is still in force.

### ‘**Meaning of “identified provision”**’

‘**154D.** For this part, a provision is an “**identified provision**” if it is a provision about—

- (a) the coordination or integration of public passenger services of 2 or more service entities; or
- (b) the route to be used or not to be used by a service entity in

- providing a public passenger service; or
- (c) an area in which a service entity will or will not provide a public passenger service; or
  - (d) where a service entity will or will not pick up or set down passengers in providing a public passenger service; or
  - (e) the times a service entity will or will not provide a public passenger service; or
  - (f) the persons or classes of persons to whom a service entity will or will not provide a public passenger service; or
  - (g) a characteristic of a vehicle, vessel or item of rolling stock a service entity will or will not use to provide a public passenger service; or
  - (h) a service entity not providing a public passenger service that competes, or if it were provided, would compete, with a public passenger service of another service entity; or
  - (i) a service entity providing a public passenger service for or on behalf of another person, including another service entity, whether as principal or agent; or
  - (j) a service entity issuing a ticket for a public passenger service, if all or part of the service is to be provided by 1 or more other service entities; or
  - (k) the name, sign, decal or logo under which a service entity is to provide a public passenger service; or
  - (l) the terms on which a service entity provides a public passenger service; or
  - (m) the promotion of a public passenger service provided by 1 or more of the service entities.

### **‘Meaning of “management entity provision”**

**‘154E.(1)** For this part, a **“management entity provision”** is a provision about the supply by a management entity of a service for a public passenger service of 1 or more service entities.

---

‘(2) However, a provision is a **“management entity provision”** only if the provision is—

- (a) about the persons or classes of persons to whom the service will be supplied; or
- (b) to the effect that the management entity is to supply the service on condition that the service entity or entities are to acquire service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

#### **‘Meaning of “service entity provision”**

‘154F.(1) For this part, a **“service entity provision”** is a provision about the acquisition, use or supply of service equipment for a public passenger service of 1 or more service entities.

‘(2) However, a provision is a **“service entity provision”** only if the provision is—

- (a) about the persons or classes of persons from whom the service equipment will be acquired or to whom the service equipment will be supplied; or
- (b) to the effect that a service entity or management entity is to supply the service equipment on condition that another person, including another service entity or management entity, is to acquire other service equipment, including from a person who is not a party to the contract, arrangement or understanding containing the provision.

#### **‘Meaning of “State influenced entity”**

‘154G.(1) For this part, a **“State influenced entity”** is an entity whose functions include coordinating or facilitating the integration of public passenger services.

‘(2) However, an entity is a **“State influenced entity”** only if at least 1 of the following applies—

- (a) the State has power to appoint a person to, or remove a person from, the board or managing body of the entity;

- (b) the State has power to vote, or control a vote, at a meeting of the board or managing body of the entity;
- (c) the State has power to vote, or control a vote, at a meeting of the members of the entity.

**‘References to public passenger services in pt 2**

**‘154H.(1)** A reference in this part to a public passenger service does not include a reference to a public passenger service that is a taxi service or limousine service.

**‘(2)** A reference in this part to the public passenger service of a service entity is a reference to a public passenger service the service entity provides or proposes to provide in Queensland as an operator.

**‘Extended meanings of certain expressions in pt 2**

**‘154I.** For this part—

- (a) reference to making a contract or arrangement containing a particular provision includes reference to the following—
  - (i) offering to make a contract or arrangement containing the particular provision;
  - (ii) refusing to make a contract or arrangement unless the contract or arrangement contains the particular provision; and
- (b) reference to arriving at an understanding containing a particular provision includes reference to the following—
  - (i) offering to arrive at an understanding containing the particular provision;
  - (ii) refusing to arrive at an understanding unless the understanding contains the particular provision; and
- (c) reference to the supply of something includes reference to the following—
  - (i) the supply of the thing at a particular price;
  - (ii) an offer to supply the thing;

- 
- (iii) an offer to supply the thing at a particular price;
  - (iv) giving, or offering to give, a discount, allowance, rebate or credit in relation to the supply or proposed supply of the thing;
  - (v) resupply of the thing; and
- (d) reference to the supply of something on a condition includes reference to a refusal to supply the thing without the condition.

### *‘Division 2—Authorisations*

#### **‘Authorisations for coordination and integration of public passenger services**

**‘154J.** The following things are specifically authorised for the competition legislation—

- (a) 2 or more service entities making a contract or arrangement, or arriving at an understanding, that includes an identified provision, but only if the contract, arrangement or understanding was first approved by the Minister;
- (b) a service entity giving effect to an identified provision mentioned in paragraph (a);
- (c) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a fare provision;
- (d) a service entity giving effect to a fare provision mentioned in paragraph (c);
- (e) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a provision under which the service entities—
  - (i) are to share revenue or profits received by any of them in relation to a public passenger service of 1 or more of them; or
  - (ii) are to pay all or part of the costs related to providing a public passenger service of 1 or more of them;

- (f) a service entity giving effect to a provision mentioned in paragraph (e);
- (g) 2 or more service entities making a contract or arrangement, or arriving at an understanding, containing a service entity provision;
- (h) a service entity giving effect to a service entity provision mentioned in paragraph (g);
- (i) 1 or more service entities and a management entity making a contract or arrangement, or arriving at an understanding, containing an identified provision, a fare provision, a management entity provision or a service entity provision;
- (j) a service entity or management entity giving effect to a provision mentioned in paragraph (i);
- (k) a management entity and another entity (the “**system entity**”) making a contract or arrangement, or arriving at an understanding, containing a provision about the system entity doing 1 or more of the following in relation to service equipment for 1 or more service entities’ public passenger services—
  - (i) designing the equipment;
  - (ii) making the equipment;
  - (iii) building the equipment;
  - (iv) installing the equipment;
  - (v) maintaining the equipment;
- (l) an entity giving effect to a provision mentioned in paragraph (k).

### **‘Provisions limiting application of authorisations**

**‘154K.(1)** Section 154J applies to a service entity in relation to a public passenger service it provides or proposes to provide only if the service entity is—

- (a) if the public passenger service is a service for the carriage of passengers on a railway—
  - (i) a railway manager for the railway; or



- (ii) a person who is accredited under the *Transport Infrastructure Act 1994*, chapter 6, part 4<sup>12</sup> as a railway operator for the railway; or
- (b) if the public passenger service is a ferry service—the operator of the ferry service; or
- (c) otherwise—the holder of an operator accreditation for the public passenger service.

‘(2) Section 154J(b), (d), (f) and (h) applies to a provision for only 5 years after the contract, arrangement or understanding containing the provision is made or arrived at.

#### ‘Provisions supporting application of authorisations

‘**154L.(1)** A thing authorised under section 154J, as qualified by section 154K, is authorised even if—

- (a) it has a purpose, or an effect or likely effect, of substantially lessening competition in a market; or
- (b) it has a purpose described in TPA, section 46(1)<sup>13</sup> or the Competition Code, section 46(1);<sup>14</sup> or
- (c) the applicable contract, arrangement or understanding contains a provision that—
  - (i) under TPA, section 4D,<sup>15</sup> is taken to be an exclusionary provision under TPA; or
  - (ii) under the Competition Code, is taken to be an exclusionary provision under the Competition Code.

‘(2) A thing mentioned in section 154J(g), (h), (i), (j), (k) or (l), as qualified by section 154K, is authorised even if it involves an entity to

<sup>12</sup> *Transport Infrastructure Act 1994*, chapter 6 (Rail transport infrastructure), part 4 (Accreditation)

<sup>13</sup> *Trade Practices Act 1974* (Cwlth), section 46 (Misuse of market power)

<sup>14</sup> Competition Code, section 46 (Misuse of market power)

<sup>15</sup> *Trade Practices Act 1974* (Cwlth), section 4D (Exclusionary provisions)

---

which the provision applies engaging in the practice of exclusive dealing in a way described in TPA, section 47<sup>16</sup> or in the Competition Code, section 47.<sup>17</sup>

## ‘PART 3—REGULATION-MAKING POWER’.

### **Amendment of s 155 (Regulations)**

#### **29. Section 155(3)—**

*insert—*

- ‘(i) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of busway land—
  - (i) buses operating on a busway established on the busway land; and
  - (ii) persons having the permission of the chief executive to be on the busway land; or
- (j) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of light rail land—
  - (i) light rail vehicles operating on a light rail established on the light rail land; and
  - (ii) persons having the permission of the chief executive or a light rail manager for the light rail to be on the light rail land.’.

### **Amendment of sch 3 (Dictionary)**

#### **30. Schedule 3—**

*insert—*

---

<sup>16</sup> *Trade Practices Act 1974* (Cwlth), section 47 (Exclusive dealing)

<sup>17</sup> Competition Code, section 47 (Exclusive dealing)

- 
- “**Competition Code**”, for chapter 12, part 2, see section 154B.  
“**competition legislation**”, for chapter 12, part 2, see section 154B.  
“**fare**”, for chapter 12, part 2, see section 154B.  
“**fare provision**”, for chapter 12, part 2, see section 154C.  
“**identified provision**”, for chapter 12, part 2, see section 154D.  
“**management entity**”, for chapter 12, part 2, see section 154B.  
“**management entity provision**”, for chapter 12, part 2, see section 154E.  
“**service entity**”, for chapter 12, part 2, see section 154B.  
“**service entity provision**”, for chapter 12, part 2, see section 154F.  
“**service equipment**”, for a public passenger service, for chapter 12, part 2,  
see section 154B.  
“**State influenced entity**”, for chapter 12, part 2, see section 154G.  
“**TPA**”, for chapter 12, part 2, see section 154B.’.

## **PART 4—AMENDMENT OF TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995**

### **Act amended in pt 4**

**31.** This part amends the *Transport Operations (Road Use Management) Act 1995*.

### **Amendment of s 171 (Regulation-making power)**

**32.** Section 171(3)—

*insert—*

‘(ga)prescribe rules about the use by the following, under the  
*Transport Infrastructure Act 1994*, of busway land—

- (i) buses operating on a busway established on the busway land;
  - (ii) persons having the permission of the chief executive to be on the busway land; or
- (gb) prescribe rules about the use by the following, under the *Transport Infrastructure Act 1994*, of light rail land—
- (i) light rail vehicles operating on a light rail established on the light rail land;
  - (ii) persons having the permission of the chief executive or a light rail manager for the light rail to be on the light rail land; or’.

## **PART 5—AMENDMENT OF TRANSPORT PLANNING AND COORDINATION ACT 1994**

### **Act amended in pt 5**

**33.** This part amends the *Transport Planning and Coordination Act 1994*.

### **Amendment of s 3 (Definitions)**

**34.(1)** Section 3—

*insert—*

‘ **“busway transport infrastructure”** has the meaning given in the *Transport Infrastructure Act 1994*, schedule 3.

**“light rail transport infrastructure”** has the meaning given in the *Transport Infrastructure Act 1994*, schedule 3.’.

**(2)** Section 3, definition **“transport land”**, paragraph (b)—

*insert—*

‘(iv) busway transport infrastructure or bus passenger services; or

- (v) light rail transport infrastructure or light rail passenger services.’.

**Amendment of s 23 (Functions of chief executive not limited by implication)**

**35.** Section 23(1), example 4, from ‘road transport’—

*omit, insert—*

‘functions for road transport infrastructure, busway transport infrastructure and light rail transport infrastructure under that Act.’.

**Amendment of s 25 (General powers regarding property)**

**36.** Section 25(6), ‘easement in land beneath’—

*omit, insert—*

‘easement or other interest in land above or beneath’.

**Insertion of new s 26A**

**37.(1)** After section 26—

*insert—*

**‘Changing requirement for transport land**

**‘26A.(1)** This section applies to transport land taken under the *Acquisition of Land Act 1967* for a particular transport purpose.

**‘(2)** The Minister may, by gazette notice under this Act, declare that the land is required for another stated transport purpose.

**‘(3)** The land is taken to have been acquired for the other transport purpose from the day the declaration is published in the gazette.

**‘(4)** The *Acquisition of Land Act 1967*, section 41 does not apply to the land because of the change of purpose.

**‘(5)** This section does not affect any right of a person to compensation because of the acquisition.

---

‘(6) To remove doubt, it is declared that a declaration under subsection (2)—

- (a) is not an acquisition of the land; and
- (b) does not give a right to compensation.’.

**Amendment of s 27 (Power of chief executive to lease, sell or otherwise dispose of land to transport GOC etc.)**

**38.(1)** Section 27, heading, ‘to transport GOC etc.’—

*omit.*

**(2)** Section 27(1), from ‘transport land’—

*omit, insert—*

‘transport land—

- (a) if the land is for busway transport infrastructure or bus passenger services—to any person for busway transport infrastructure or bus passenger services; or
- (b) if the land is for light rail transport infrastructure or light rail passenger services—to any person for light rail transport infrastructure or light rail passenger services; or
- (c) if the land is for a transport purpose other than a purpose mentioned in paragraph (a) or (b)—to a transport GOC or a franchisee or railway manager under the *Transport Infrastructure Act 1994*.’.

**Insertion of new pt 4A**

**39.** After section 28—

*insert—*

---

## **PART 4A—SPECIAL PROVISIONS FOR BUSWAYS**

### **Definitions for pt 4A**

**28A.** In this part—

**“Acquisition Act”** means the *Acquisition of Land Act 1967*.

**“agreement”** means an agreement under the Acquisition Act, section 15(1).

**“busway”** means—

- (a) a route especially designed and constructed for, and dedicated to, the priority movement of buses for passenger transport purposes; and
- (b) places for the taking on and letting off of bus passengers using the route.

**“commencement”** means the commencement of section 28B.

**“constructing authority”**, for a land acquisition, means the constructing authority for the land acquisition under the Acquisition Act.

**“construction contract”** means a contract concerning the construction of a busway.

**“land acquisition”** means the taking of land under the authority of this Act and the Acquisition Act if, regardless of the particular purpose for the taking of the land, the taking of land is concerned with the construction or proposed construction of a busway.

**“notice of intention to resume”** means a notice of intention to resume under the Acquisition Act.

**“taking of land”** means the taking of land—

- (a) under a gazette notice under the Acquisition Act, section 9(7), including as amended by any amending gazette notice under section 11 of that Act; or
- (b) under a gazette notice under the Acquisition Act, section 15(6A).

**‘Busway land acquisition**

**‘28B.(1)** Subsections (2) and (3) apply to a land acquisition that—

- (a) happened before the commencement; or
- (b) happens after the commencement if—
  - (i) the notice of intention to resume for the land acquisition was served before the commencement; or
  - (ii) the date of the agreement for the land acquisition was earlier than the commencement.

**‘(2)** It is declared that the validity and effectiveness of the land acquisition was not, and is not, affected by—

- (a) whether the constructing authority was or is, or purported or purports to be—
  - (i) the chief executive with administrative responsibilities concerning matters connected with transport infrastructure; or
  - (ii) the chief executive with administrative responsibilities concerning matters connected with roads; or
- (b) for the application of the Acquisition Act, section 9 or 15, whether the person assuming the role of Minister was or is the Minister mentioned in the Acquisition Act, section 9(2), definition **“Minister”**, paragraph (b) or another Minister.

**‘(3)** It is declared that, despite anything done for the land acquisition, the constructing authority for the acquisition is taken to be, and always to have been, the chief executive with administrative responsibilities concerning matters connected with roads.

**‘(4)** Subsection (5) applies for achieving a valid and effective land acquisition after the commencement if—

- (a) the notice of intention to resume for the land acquisition is served after the commencement; or
- (b) the date of the agreement for the land acquisition is later than the commencement.

**‘(5)** It is declared that—



- (a) the constructing authority for the land acquisition must be the chief executive with administrative responsibilities concerning matters connected with roads; and
- (b) for the application of the Acquisition Act, section 9 or 15, the person assuming the role of Minister must be the Minister mentioned in the Acquisition Act, section 9(2), definition “**Minister**”, paragraph (b).

‘(6) Despite anything in a notice of intention to resume or agreement for a land acquisition happening before or after the commencement, and despite any limitations or proposed limitations on the public use of the land the subject of the land acquisition, it is declared that the purposes of the land acquisition—

- (a) if happening before the commencement—are taken always to have included the purpose of roads; and
- (b) if happening after the commencement—are taken to include the purpose of roads.

#### ‘**Construction contracts**

‘**28C.** It is declared that the validity and effectiveness of a construction contract entered into before or after the commencement was not, and is not, affected by whether the entity entering into the contract for the State was or is—

- (a) the chief executive with administrative responsibilities concerning matters connected with transport infrastructure; or
- (b) the chief executive with administrative responsibilities concerning matters connected with roads.’