



Queensland

# **Transport and Other Legislation Amendment Act (No. 2) 2004**

**Act No. 40 of 2004**





## Queensland

# Transport and Other Legislation Amendment Act (No. 2) 2004

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## **Transport and Other Legislation Amendment Act (No. 2) 2004**

### **Act No. 40 of 2004**

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**An Act to amend the *Transport Infrastructure Act 1994*, other  
transport-related Acts and the *Integrated Planning Act 1997***

**[Assented to 27 October 2004]**

**The Parliament of Queensland enacts—**

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Transport and Other Legislation Amendment Act (No. 2) 2004*.

### **2 Commencement**

This Act, other than parts 2A and 4,<sup>1</sup> commences on a day to be fixed by proclamation.

## **Part 1A Amendment of Tow Truck Act 1973**

### **2A Act amended in pt 1A**

This part amends the *Tow Truck Act 1973*.

### **2B Amendment of s 4 (Definitions)**

Section 4—

*insert—*

*‘disqualifying offence see the Transport Operations (Road Use Management) Act 1995, schedule 4, definition disqualifying offence, paragraph (a).’*

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<sup>1</sup> Parts 2A (Amendment of Transport Operations (Marine Safety) Act 1994) and 4 (Amendment of Transport Operations (Road Use Management) Act 1995)



**2C Insertion of new s 4C**

Part 1, after section 4B—

*insert—*

**‘4C Who is an appropriate person**

- ‘(1) Without limiting what the chief executive may take into account when deciding whether a person is an appropriate person to hold or continue to hold a licence or certificate under this Act, regard must be had to the following—
- (a) the person’s criminal history;
  - (b) the person’s traffic history under the *Transport Operations (Road Use Management) Act 1995*;
  - (c) the person’s conduct while performing activities under a licence or certificate;
  - (d) whether the person has been charged with or convicted of—
    - (i) an offence against this Act; or
    - (ii) a disqualifying offence; or
    - (iii) an offence committed in another State or country that, if committed in Queensland, would be a disqualifying offence;
  - (e) whether the person has held a licence or certificate that has been cancelled and, if so, why it was cancelled;
  - (f) whether the person holds a licence or certificate that has been or is suspended and, if so, why it was suspended;
  - (g) whether the person is capable of satisfactorily performing the activities authorised under a licence or certificate, including because of any known medical condition or physical or mental incapacity;
  - (h) whether the person is subject to a domestic violence order or an interstate domestic violence order as defined in the *Domestic and Family Violence Protection Act 1989*;
  - (i) whether the person has been charged with or convicted of having committed an offence in another State or

another country that, if committed in Queensland, would be an offence against the *Weapons Act 1990*;

- (j) whether the person has been charged with or convicted of having committed an offence in another State or another country that, if committed in Queensland, would be an offence against the *Drugs Misuse Act 1986*.

‘(2) In this section—

***certificate*** means

- (a) an assistant’s certificate; or  
(b) a driver’s certificate.

***criminal history***, of a person—

- (a) means the person’s criminal history under the *Criminal Law (Rehabilitation of Offenders) Act 1986*; and  
(b) includes a charge of a disqualifying offence or a charge of an offence against any of the following—  
(i) the *Drugs Misuse Act 1986*;  
(ii) the *Police Powers and Responsibilities Act 2000*, section 444;<sup>2</sup>  
(iii) the *Weapons Act 1990*; and  
(c) does not include a charge of an offence for which the proceeding for the offence ended without the person being convicted.’.

## 2D Amendment of s 6 (Application for licence)

Section 6(3)(a), ‘in all respects a fit and proper’—

*omit, insert*—

‘an appropriate’.

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<sup>2</sup> *Police Powers and Responsibilities Act 2000*, section 444 (Offence to assault or obstruct police officer)

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**2E Amendment of s 9 (Renewal of licence)**

Section 9, ‘a fit and proper’—

*omit, insert—*

‘an appropriate’.

**2F Amendment of s 14 (Application for driver’s or assistant’s certificate)**

Section 14(3), ‘in all respects a fit and proper’—

*omit, insert—*

‘an appropriate’.

**2G Amendment of s 17 (Duration and renewal of driver’s or assistant’s certificate)**

Section 17(2), ‘a fit and proper’—

*omit, insert—*

‘an appropriate’.

**2H Replacement of pt 4 (Regulation of licences, certificates and permits)**

Part 4—

*omit, insert—*

**‘Part 4 Authorities and permits****‘Division 1 Preliminary****‘20 Definitions for pt 4**

‘In this part—

*authority* means—

- (a) an assistant’s certificate; or
- (b) a driver’s certificate; or
- (c) a licence.

***authority holder*** means a person to whom an authority granted under this Act is issued.

## **‘21 Consideration of public interest for pt 4**

‘(1) When considering whether it is in the public interest to cancel, suspend or immediately suspend an authority holder’s authority, regard must be had to the following—

- (a) the need to ensure that the reputation of the tow truck industry is not affected by the involvement in the industry of persons likely to adversely affect the industry’s reputation;
- (b) the legitimate expectation members of the public, particularly vulnerable members of the public, have that they will not be subject to assaults or aggressive, coercive or otherwise inappropriate behaviour from persons involved in the tow truck industry.

*Examples for subsection (1)—*

- 1 It may be in the public interest to cancel or suspend, or if authorised under section 21B, immediately suspend a tow truck driver’s or an operator’s authority because the person is charged with possessing a weapon in contravention of the *Weapons Act 1990* or a dangerous drug in contravention of the *Drugs Misuse Act 1986* and the offence was committed while performing activities under the authority.
  - 2 It may be in the public interest to cancel or suspend, or if authorised under section 21B, immediately suspend a tow truck driver’s or an operator’s authority because the person is charged with a number of offences of obstructing a police officer in the performance of the officer’s duties and the alleged offences happened while the person was not performing activities under the authority.
  - 3 It may be in the public interest to cancel or suspend, or if authorised under section 21B, immediately suspend a tow truck driver’s authority if the driver assaults a person at a crash scene.
- ‘(2) Subsection (1) does not limit what may be considered in deciding the public interest for the purposes of this Act.

## **‘Division 2                    Cancellation and suspension of    authorities**

### **‘21A    Cancellation or suspension of authorities**

‘The chief executive may cancel or suspend an authority holder’s authority under section 21D on any of the following grounds—

- (a) the authority—
  - (i) was issued in error; or
  - (ii) was granted or renewed because of a false or fraudulent document, statement or representation;
- (b) the authority holder—
  - (i) is convicted of an offence against this Act; or
  - (ii) has, since the issue of the authority, been charged with or convicted of a disqualifying offence; or
  - (iii) contravenes a condition of the authority; or
  - (iv) stops being a tow truck operator, driver or assistant;
- (c) the authority holder can not properly drive the class of motor vehicle stated in the authority because of a medical condition, or physical or mental incapacity;
- (d) the motor vehicle stated in the authority is no longer suitable for use under the authority;
- (e) the authority holder has given false or misleading information to an authorised officer;
- (f) public safety has been endangered, or is likely to be endangered, because of the authority holder’s conduct;
- (g) having regard to the conduct of the authority holder, when performing activities under the authority or at any other time, the chief executive believes, on reasonable grounds—
  - (i) the person is no longer an appropriate person to hold an authority; or

- (ii) it is in the public interest to cancel or suspend the authority.

### **‘21B Immediate suspension of authority**

- ‘(1) Despite section 21D, the chief executive may immediately suspend an authority holder’s authority by written notice given to the authority holder on either of the following grounds—
  - (a) public safety has been endangered, or is likely to be endangered, because of the authority holder’s conduct and the authority should be immediately suspended;
  - (b) having regard to the conduct of the authority holder, when performing activities under the authority or at any other time, the chief executive believes, on reasonable grounds—
    - (i) the person is no longer an appropriate person to hold an authority and the authority should be immediately suspended; or
    - (ii) it is in the public interest to immediately suspend the authority.
- ‘(2) Without limiting the chief executive’s powers under subsection (1), it is enough to immediately suspend an authority holder’s authority if—
  - (a) a person complains to a police officer about the conduct of the authority holder and, having regard to the nature of the complaint, the chief executive believes, on reasonable grounds, the conduct complained of justifies taking action under subsection (1); or
  - (b) having regard to statements or other information about the conduct of the authority holder given to the chief executive, the chief executive believes, on reasonable grounds, the statements or other information justifies taking action under subsection (1).
- ‘(3) If the chief executive immediately suspends the authority, the suspension has effect under this section until the earlier of the following—

- (a) the chief executive informs the authority holder of the chief executive's decision under section 21D(5);
  - (b) the end of 56 days after the notice is given to the authority holder or the end of any further period or periods by which the suspension is extended under subsection (5).
- '(4) The notice of immediate suspension must state—
- (a) the reasons for the decision; and
  - (b) the general effect of subsection (3); and
  - (c) that the authority holder may apply within 28 days for a review of the decision to immediately suspend the authority; and
  - (d) how the authority holder may apply for a review of the decision; and
  - (e) that if the authority holder applies for a review, the authority holder may apply to a Magistrates Court for a stay of the decision.
- '(5) The chief executive may extend the period for which an authority is suspended under subsection (1) for a further period or periods of not more than 56 days on each occasion.
- '(6) However, in deciding whether to extend or further extend the period of the suspension of an authority holder's authority, the chief executive must have regard to—
- (a) the information that was available to the chief executive when the chief executive first suspended the authority under subsection (1); and
  - (b) any further information relevant to the suspension that is in the chief executive's possession or of which the chief executive has since become aware; and
  - (c) whether in all the circumstances it is appropriate that the suspension be further extended.

### **'21C Further action after immediate suspension**

- '(1) This section applies if—

- (a) under section 21B, the chief executive immediately suspends an authority; and
  - (b) the chief executive also proposes to take proposed action under section 21D.
- ‘(2) The notice under section 21B must also—
- (a) state the information mentioned in section 21D(3)(a), (b) and (c) in relation to the proposed action; and
  - (b) if the proposed action is suspension of the authority—state the proposed suspension period; and
  - (c) invite the person to show cause in writing, within a stated time of at least 28 days, why the proposed action should not be taken.
- ‘(3) Section 21D(4) to (6) applies to the proposed action as if the notice had been given under section 21D(3).
- ‘(4) Despite subsection (3), section 21D(4)(a)(i) or (b)(ii) does not limit the chief executive’s powers to extend the period of suspension under section 21B(5).

### ‘21D Amending, suspending or cancelling authority

- ‘(1) This section applies if the chief executive considers a ground exists under section 21A to suspend or cancel an authority holder’s authority.
- ‘(2) However, this section does not apply if section 21E applies.
- ‘(3) Before taking action to suspend or cancel the authority (the *proposed action*), the chief executive must give the authority holder a written notice—
- (a) stating the proposed action; and
  - (b) stating the grounds for the proposed action; and
  - (c) outlining the facts and circumstances forming the basis for the grounds; and
  - (d) if the proposed action is suspension of the authority—stating the proposed suspension period; and



- (e) inviting the person to show cause in writing, within a stated time of at least 28 days, why the proposed action should not be taken.
- ‘(4) If, after considering all written representations made within the stated time, the chief executive still considers a ground exists to take the proposed action, the chief executive may—
- (a) if the proposed action was to suspend the authority—
    - (i) suspend the authority for no longer than the period stated in the notice; or
    - (ii) amend the authority in the way the chief executive considers appropriate; or
  - (b) if the proposed action was to cancel the authority—
    - (i) cancel the authority; or
    - (ii) suspend the authority for a period; or
    - (iii) amend the authority in the way the chief executive considers appropriate.
- ‘(5) However, if the proposed action relates to a matter that is the subject of a proceeding before a court that has not been finally decided, the chief executive—
- (a) need not make a decision under subsection (4) until the proceeding is finally decided; but
  - (b) must make the decision as soon as reasonably practicable after the proceeding is finally decided.
- ‘(6) The chief executive must inform the person of the decision under subsection (4) by written notice.
- ‘(7) If the chief executive decides to take action under subsection (4), the notice must state—
- (a) the reasons for the decision; and
  - (b) that the person may apply within 28 days for a review of the decision; and
  - (c) how the person may apply for a review of the decision.

**‘21E Other amendments of authorities**

- ‘(1) This section applies only if the chief executive proposes to amend an authority holder’s authority—
  - (a) for a formal or clerical reason; or
  - (b) in another way that does not adversely affect the person’s interests; or
  - (c) if the person asks.
- ‘(2) The chief executive may make amendments of a type mentioned in subsection (1) by written notice given to the authority holder.

**‘21F Surrender of authority on authority holder’s request**

- ‘(1) An authority holder may surrender the authority holder’s authority by sending it to the chief executive with written notice of the surrender.
- ‘(2) On the surrender day, the authority stops having effect.
- ‘(3) In this section—

*surrender day*, for a surrendered authority, means—

  - (a) the day stated in the notice of surrender as the day the surrender takes effect; or
  - (b) if no day is stated in the notice, the day the chief executive receives the notice.

**‘21G Delivery of cancelled or suspended authority**

‘If the chief executive cancels or suspends an authority under this division, the authority holder must deliver the authority to the chief executive within the time specified by the chief executive in the notice of cancellation or suspension.

Maximum penalty—20 penalty units.

## **‘Division 3                      Record keeping**

### **‘21H    Records**

‘The chief executive must keep the records the chief executive considers appropriate about the following in the way the chief executive considers appropriate—

- (a) applications for the grant of authorities and permits;
- (b) the grant, refusal, cancellation or suspension of authorities;
- (c) the revocation of permits.’.

### **2I            Amendment of s 37 (Evidentiary provisions)**

Section 37(1), ‘section 20’—

*omit, insert—*

‘section 21H’.

### **2J            Replacement of sch (Reviewable decisions)**

Schedule—

*omit, insert—*

## **‘Schedule                      Reviewable decisions**

section 28

## **‘Part 1                              Licences**

- 1            Failing to grant and issue a licence under section 6
- 2            Failing to renew a licence under section 9
- 3            Imposing a condition on the grant or renewal of a licence under section 10
- 4            Varying licence conditions under section 10

- 5 Suspending or cancelling a licence under section 21B or 21D
- 6 Amending a licence under section 21D

## **‘Part 2                      Driver’s certificates and assistant’s certificates**

- 1 Failing to grant and issue a certificate under section 14
- 2 Failing to renew a certificate under section 17
- 3 Imposing a condition on the grant or renewal of a certificate under section 16
- 4 Varying certificate conditions under section 16
- 5 Suspending or cancelling a certificate under section 21B or 21D
- 6 Amending a certificate under section 21D’.

## **Part 2                      Amendment of Transport Infrastructure Act 1994**

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

This part amends the *Transport Infrastructure Act 1994*.

### **4                      Replacement of s 258 (Impact of certain decisions by local governments on railways)**

Section 258—

*omit, insert—*

### **‘258                      Impact of particular development on railways**

- ‘(1) This section applies if the chief executive is an assessment manager or a referral agency under the *Integrated Planning Act 1997* for a development application under that Act.

- ‘(2) Also, this section has as its purpose ensuring the safety and operational integrity of railways and future railways.
- ‘(3) For performing the chief executive’s functions as assessment manager or referral agency, the chief executive must consider the impact of the proposed development on the safety and operational integrity of railways and future railways.
- ‘(4) Subsection (3) is in addition to, and does not limit, the *Integrated Planning Act 1997*, section 3.3.15 and chapter 3, part 5, division 2.<sup>3</sup>

#### **‘258A Impact of change of management of local government road on railways**

- ‘(1) A local government must apply to the chief executive to obtain the chief executive’s written approval to make a change to the management of a local government road that, if made—
  - (a) would require works to be carried out on a railway; or
  - (b) would have a significant adverse impact on the safety and operational integrity of a railway or a future railway.
- ‘(2) The chief executive—
  - (a) must consider the application within—
    - (i) 30 days after receiving it; or
    - (ii) the longer time notified to the local government by the chief executive, in writing, before the end of the 30 days; and
  - (b) may—
    - (i) approve the proposed change, with or without conditions; or
    - (ii) refuse to approve the proposed change.
- ‘(3) The chief executive must give the local government written notice of the chief executive’s decision on the application.

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<sup>3</sup> *Integrated Planning Act 1997*, section 3.3.15 (Referral agency assesses application) and chapter 3 (Integrated Development Assessment System (IDAS)), part 5 (Decision stage), division 2 (Assessment process)

- ‘(4) If the chief executive does not do any of the following within the 30 days, the chief executive is taken to have approved the proposed change—
- (a) approve the proposed change;
  - (b) refuse to approve the proposed change;
  - (c) give the local government a notice under subsection (2).
- ‘(5) A failure of a local government to obtain an approval under subsection (1) does not invalidate the local government’s decision to make the change to which the decision relates.
- ‘(6) This section does not apply if the chief executive has considered the change to the management of the local government road as part of the chief executive’s consideration of a development application under IDAS.
- ‘(7) In this section—
- IDAS* see the *Integrated Planning Act 1997*, section 3.1.1.<sup>4</sup>

### **‘258B Guidelines for ss 258-258A**

- ‘(1) For the purposes of sections 258 and 258A, the chief executive may make guidelines to which a person must have regard when—
- (a) carrying out development under the *Integrated Planning Act 1997*; or
  - (b) making changes to the management of a local government road.
- ‘(2) The chief executive must give a copy of the guidelines to each local government affected by the guidelines.’.

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<sup>4</sup> *Integrated Planning Act 1997*, section 3.1.1 (What is IDAS)

## **Part 2A                      Amendment of Transport Operations (Marine Safety) Act 1994**

### **4A      Act amended in pt 2A**

This part amends the *Transport Operations (Marine Safety) Act 1994*.

### **4B      Amendment of s 215 (Pilotage fees and conservancy dues)**

Section 215(1)(a)—

*omit, insert—*

‘(a) pilotage fees for the services of a pilot in relation to a pilotage area or compulsory pilotage area, and for other matters incidental to the services, including, for example—

- (i) setting a fee for the services of a pilot by reference to a ship’s length and having regard to the need to ensure that pilotage services are provided in an efficient way; and
- (ii) setting a fee for delay or cancellation of the services; and’.

## **Part 3                      Amendment of Transport Operations (Passenger Transport) Act 1994**

### **5      Act amended in pt 3**

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

**6 Amendment of ch 6, pt 2, div 2 hdg**

Chapter 6, part 2, division 2, heading, ‘scheduled service’—  
*omit, insert—*  
‘scheduled passenger services’.

**7 Omission of ss 145-146**

Sections 145 and 146—  
*omit.*

**8 Amendment of sch 2 (Reviewable decisions)**

Schedule 2, entries for section 145(1) and (3)—  
*omit.*

**9 Insertion of new ch 13, pt 1B**

Chapter 13, after section 163—  
*insert—*

**‘Part 1B Transitional Provisions for  
Transport and Other  
Legislation Amendment Act  
(No. 2) 2004**

**‘164 Provisions dealing with impact of decisions of local  
governments on public passenger transport**

- ‘(1) This section applies if under section 145 as in force immediately before the commencement of part 3 of the amending Act a local government applied to the chief executive for approval for a matter and the chief executive’s decision on the application has not been made.
- ‘(2) Sections 145 and 146 and schedule 2, as in force immediately before the commencement, continue to apply in relation to the matter as if the amending Act had not been enacted.



‘(3) In this section—

*amending Act* means the *Transport and Other Legislation Amendment Act (No. 2) 2004*.’

## **Part 4**                                      **Amendment of Transport Operations (Road Use Management) Act 1995**

### **10 Act amended in pt 4**

This part amends the *Transport Operations (Road Use Management) Act 1995*.

### **11 Amendment of s 18 (Grounds for amending, suspending or cancelling approvals)**

Section 18—

*insert—*

‘(h) for any approval other than an approval mentioned in paragraph (g)—public safety has been endangered, or is likely to be endangered, because of the approval;

‘(i) the chief executive considers it necessary in the public interest.’

### **12 Amendment of s 31 (Power to stop private vehicles)**

(1) Section 31(2), after ‘subsection (1)’—

*insert—*

‘or (2)’.

(2) Section 31(3), after ‘subsection (1)’—

*insert—*

‘or (2)’.

(3) Section 31(2) and (3), as amended—

*renumber* as section 31(3) and (4).

(4) Section 31—

*insert*—

- ‘(2) In addition, an authorised officer may require the person in control of a private vehicle to stop the vehicle to find out whether the vehicle is carrying explosives within the meaning of the *Explosives Act 1999* if—
- (a) the officer is also an inspector under the *Explosives Act 1999*; and
  - (b) the officer reasonably believes the vehicle is carrying explosives within the meaning of the *Explosives Act 1999*.’.

### **13 Amendment of s 32 (Power to stop heavy vehicles)**

(1) Section 32(2)—

*renumber* as section 32(3).

(2) Section 32(3), ‘subsection (2)’—

*omit, insert*—

‘subsection (3)’.

(3) Section 32(4), penalty, ‘subsection (4)’—

*omit, insert*—

‘subsection (5)’.

(4) Section 32(3) and (4), as amended—

*renumber* as section 32(4) and (5).

(5) Section 32—

*insert*—

- ‘(2) In addition, an authorised officer who is also an inspector under the *Explosives Act 1999* may require the person in control of a heavy vehicle to stop the vehicle to check whether the vehicle is carrying explosives within the meaning of the *Explosives Act 1999*.’.

## 14 Insertion of new s 39A

Part 3, division 2, after section 39—

*insert—*

### ‘39A Additional power for Explosives Act 1999 for particular authorised officers

- ‘(1) This section applies if an authorised officer who is also an inspector under the *Explosives Act 1999* stops a vehicle under section 31(2) or 32(2).
- ‘(2) The authorised officer may check the vehicle to find out—
  - (a) whether the vehicle is carrying explosives within the meaning of the *Explosives Act 1999*; and
  - (b) if the vehicle is carrying explosives—whether the explosives are being carried as required under the *Explosives Act 1999*.
- ‘(3) The authorised officer may exercise powers the person has under this Act or the *Explosives Act 1999*, or both.’.

## 15 Amendment of s 47 (Power to set up checkpoints)

- (1) Section 47(2)—

*renumber* as section 47(3).

- (2) Section 47—

*insert—*

- ‘(2) Also, the chief executive may approve a program under which authorised officers who are also inspectors under the *Explosives Act 1999* may set up checkpoints to inspect motor vehicles to ensure compliance with that Act.’.

## Part 5 Amendment of Transport Planning and Coordination Act 1994

### 16 Act amended in pt 5

This part amends the *Transport Planning and Coordination Act 1994*.

### 17 Amendment of s 3 (Definitions)

Section 3—

*insert—*

*‘ferry service* see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

*IDAS* see the *Integrated Planning Act 1997*, section 3.1.1.

*local government road* means a road under the control of a local government.

*long distance scheduled passenger service* see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

*public passenger service* see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

*public passenger transport infrastructure* means infrastructure for or associated with the provision of public passenger transport, including, but not limited to, the following—

- (a) a transit terminal for public passenger services;
- (b) a ferry terminal, jetty, pontoon or landing for ferry services;
- (c) a bus stop, bus shelter, bus station or bus lay-by;
- (d) a busway station;
- (e) a taxi rank, limousine rank or limousine standing area;
- (f) a railway station;
- (g) vehicle parking and set-down facilities;

(h) pedestrian and bicycle paths and bicycle facilities.

*road*, for part 2A, see the *Transport Infrastructure Act 1994*, schedule 6, definition *road*, paragraphs (c) and (d).

*road works* see the *Transport Infrastructure Act 1994*, schedule 6.

*scheduled passenger service* see the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.’.

## 18 Insertion of new pt 2A

After section 8—

*insert—*

### ‘Part 2A Land use and transport coordination

#### ‘8A Object of pt 2A

- ‘(1) The object of this part is to enable the chief executive to encourage increased integration between land use and transport.
- ‘(2) The way the object is to be achieved includes—
- (a) ensuring, as far as practicable, development does not have a significant adverse impact on existing and future public passenger transport; and
  - (b) ensuring, as far as practicable, public passenger transport offers an attractive alternative to private transport in a way that reduces the overall economic, environmental and social costs of transport; and
  - (c) promoting urban development that maximises the use of public passenger transport; and
  - (d) increasing opportunities for people to access public passenger transport, including access by cycling and walking; and

- (e) ensuring, as far as practicable, the provision of public passenger transport infrastructure to support public passenger transport.

**‘8B Impact of particular development on public passenger transport**

- ‘(1) This section applies if the chief executive is an assessment manager or a referral agency under the *Integrated Planning Act 1997* for a development application under that Act.
- ‘(2) For performing the chief executive’s functions as assessment manager or referral agency, the chief executive must consider the extent to which the proposed development satisfies the objectives of this part.
- ‘(3) Subsection (2) is in addition to, and does not limit, the *Integrated Planning Act 1997*, section 3.3.15 and chapter 3, part 5, division 2.<sup>5</sup>

**‘8C Impact of road works on local government road**

- ‘(1) This section applies in relation to road works on a local government road if the road works—
  - (a) are to be carried out on a road that forms part of a route used for a public passenger service; or
  - (b) will do either of the following while the works are being carried out or when the works are finished—
    - (i) restrict or limit access to public passenger transport infrastructure;
    - (ii) result in the removal of public passenger transport infrastructure.
- ‘(2) However, this section applies in relation to a route used for a public passenger service only if the chief executive advises

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<sup>5</sup> *Integrated Planning Act 1997*, section 3.3.15 (Referral agency assesses application) and chapter 3 (Integrated Development Assessment System (IDAS)), part 5 (Decision stage), division 2 (Assessment process)

the relevant local government, in writing, that a code for IDAS applies to the route.

- ‘(3) Without limiting subsection (2), the chief executive may identify as a route to which a code for IDAS applies—
- (a) a route used for a scheduled passenger service; or
  - (b) a route used for a long distance scheduled passenger service; or
  - (c) a route identified in a passenger transport implementation strategy or program under the *Transport Operations (Passenger Transport) Act 1994*.
- ‘(4) A person who undertakes road works on a local government road to which this section applies must comply with a code for IDAS prescribed under a regulation for this section.

#### **‘8D Impact of change of management of local government road on public passenger transport**

- ‘(1) A local government must apply to the chief executive to obtain the chief executive’s written approval to make a change to the management of a local government road that, if made, would have a significant adverse impact on the provision of public passenger transport.

*Examples—*

1. The closure of a road or lane that is part of a public passenger transport route.
  2. The removal or alteration of a bus lane or transit lane.
  3. A change in the direction of traffic flow along a road that is part of a public passenger transport route.
  4. A change in priority settings on a road that is part of a public passenger transport route.
- ‘(2) The chief executive—
- (a) must consider the application within—
    - (i) 21 days after receiving it; or
    - (ii) the longer time notified to the local government by the chief executive, in writing, before the end of the 21 days; and

- (b) may—
  - (i) approve the proposed change, with or without conditions; or
  - (ii) refuse to approve the proposed change.
- ‘(3) The chief executive must give the local government written notice of the chief executive’s decision on the application.
- ‘(4) If the chief executive does not do any of the following within the 21 days, the chief executive is taken to have approved the proposed change—
  - (a) approve the proposed change;
  - (b) refuse to approve the proposed change;
  - (c) give the local government a notice under subsection (2).
- ‘(5) A failure of a local government to obtain an approval under subsection (1) does not invalidate the local government’s decision to make the change to which the decision relates.
- ‘(6) Part 5 applies to a decision of the chief executive under subsection (2)(b).
- ‘(7) This section does not apply if—
  - (a) the chief executive has considered the change of management of the local government road as part of the chief executive’s consideration of a development application under IDAS; or
  - (b) it is reasonably necessary for the change to be made without delay including, for example, because of an emergency affecting the safety of the road network.
- ‘(8) In this section—
 

*IDAS* see the *Integrated Planning Act 1997*, section 3.1.1.<sup>6</sup>

## ‘8E Guidelines for ss 8B-8D

- ‘(1) For the purposes of sections 8B to 8D, the chief executive may make guidelines to which a person must have regard when—

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<sup>6</sup> *Integrated Planning Act 1997*, section 3.1.1 (What is IDAS)



- (a) carrying out development under the *Integrated Planning Act 1997*; or
  - (b) making changes to the management of a local government road.
- ‘(2) The chief executive must give a copy of the guidelines to every local government affected by the guidelines.’.

### **19 Amendment of s 38 (Regulations)**

- (1) Section 38, heading—  
*omit, insert—*

### **‘38 Regulation-making power’.**

- (2) Section 38—  
*insert—*
- ‘(2) Without limiting subsection (1), a regulation may be made about—
- (a) a code for IDAS for proposed activities mentioned in part 2A; or
  - (b) consideration, whether monetary or otherwise, to be given to compensate the chief executive in taking action to rectify the impact a proposed activity mentioned in part 2A will have; or
  - (c) action to be taken to rectify the impact a proposed activity mentioned in part 2A will have.’.

## **Part 6 Amendment of Integrated Planning Act 1997**

### **20 Act amended in pt 6**

This part amends the *Integrated Planning Act 1997*.

**21 Amendment of s 1.3.5 (Definitions for terms used in development)**

Section 1.3.5, definition *operational work*, item 1—

*insert—*

‘(1) undertaking roadworks on a local government road.’.

**22 Amendment of s 3.5.32 (Conditions that can not be imposed)**

Section 3.5.32(2)—

*omit, insert—*

‘(2) This section does not stop a condition being imposed that requires a monetary payment, or works to be carried out—

(a) to protect or maintain—

(i) the safety or efficiency of existing or proposed State owned or State controlled transport infrastructure; or

(ii) the safety or efficiency of railways under the *Transport Infrastructure Act 1994*; or

(b) to ensure the efficient provision of public passenger transport through public passenger transport infrastructure within the meaning of the *Transport Planning and Coordination Act 1994*, whether or not the infrastructure is State owned or State controlled.’.

**23 Amendment of s 4.3.8 (Application of div 2)**

Section 4.3.8—

*insert—*

‘(aa) work the authority reasonably believes is an immediate threat to the safety or operational integrity of a railway; or’.

**24 Amendment of s 5.1.28 (Conditions State infrastructure provider may impose)**

(1) Section 5.1.28(2)—

*insert—*

‘(c) protecting or maintaining the safety and efficiency of public passenger transport.’.

(2) Section 5.1.28(2), examples—

*insert—*

5. Provision of a bus stop and adjacent pull-in bay in a large residential subdivision to accommodate a public passenger transport service.

6. Provision of a bus turning lane at an intersection for a shopping centre development because of increased traffic loading.

7. Upgrade of traffic control devices at a rail level crossing because of increased vehicular crossings from nearby residential development.’.

**25 Amendment of sch 8, pt 1 (Assessable development)**

(1) Schedule 8, part 1, table 2—

*insert—*

‘For public passenger transport	
6	Making a material change of use of premises prescribed under a regulation for this table.
For railways	
7	Making a material change of use of premises prescribed under a regulation for this table.’.

(2) Schedule 8, part 1, table 4—

*insert—*

‘For railways	
9	Operational work prescribed under a regulation for this table.’.

(3) Schedule 8, part 2, table 4—

*insert—*

‘For local government roads	
5	For assessing road works on a local government road under the <i>Transport Planning and Coordination Act 1994</i> , section 8C, operational works that are road works on a local government road.’.

## 26 Amendment of sch 8A (Assessment manager for development applications)

Schedule 8A, table 4—

*insert—*

‘8	If table 1, 2 or 3 does not apply and the application is for— (a) development prescribed under a regulation for schedule 8, part 1, table 2; and (b) no other assessable development.	The chief executive administering the <i>Transport Infrastructure Act 1994</i> or the <i>Transport Planning and Coordination Act 1994</i>
9	If table 1, 2 or 3 does not apply and the application is for— (a) development prescribed under a regulation for schedule 8, part 1, table 4; and (b) no other assessable development.	The chief executive administering the <i>Transport Infrastructure Act 1994</i> or the <i>Transport Planning and Coordination Act 1994</i> ’.

## 27 Amendment of sch 10 (Dictionary)

Schedule 10—

*insert—*

‘**local government road** has the same meaning as in the *Transport Planning and Coordination Act 1994*.

**road works** see the *Transport Infrastructure Act 1994*, schedule 6.’.

