



Queensland

# **Transport and Other Legislation Amendment Act (No. 2) 2010**

**Act No. 19 of 2010**





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## Queensland

### **Transport and Other Legislation Amendment Act (No. 2) 2010**

### **Act No. 19 of 2010**

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An Act to amend the Adult Proof of Age Card Act 2008, the Anti-Discrimination Act 1991, the Coastal Protection and Management Act 1995, the Coastal Protection and Management Regulation 2003, the Criminal Code, the Electrical Safety Act 2002, the Electrical Safety Regulation 2002, the Electricity Act 1994, the Environmental Protection Regulation 2008, the Explosives Regulation 2003, the Judicial Review Act 1991, the Land Act 1994, the Maritime Safety Queensland Act 2002, the Mineral Resources Act 1989, the Nature Conservation (Wildlife Management) Regulation 2006, the Right to Information Act 2009, the South Bank Corporation Act 1989, the Sustainable Planning Act 2009, the Transport Infrastructure Act 1994, the Transport Infrastructure (Ports) Regulation 2005, the Transport Infrastructure (Rail) Regulation 2006, the Transport Legislation Amendment Act 2007, the Transport (New Queensland Driver Licensing) Amendment Act 2008, the Transport Operations (Marine Pollution) Act 1995, the Transport Operations (Marine Pollution) Regulation 2008, the Transport Operations (Marine Safety) Act 1994, the Transport Operations (Marine Safety) Regulation 2004, the Transport Operations (Passenger Transport) Act 1994, the Transport Operations (Passenger Transport) Regulation 2005, the Transport Operations (Road Use Management) Act 1995, the Transport Operations (TransLink Transit Authority) Act 2008, the Transport Planning and Coordination Act 1994, the Transport Planning and Coordination Regulation 2005, the Transport Security (Counter-Terrorism) Act 2008, the Transport (South Bank Corporation Area Land) Act 1999, the Urban Land Development Authority Act 2007 and the Workplace Health and Safety Regulation 2008 for particular purposes

**[Assented to 23 May 2010]**

[s 1]

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**The Parliament of Queensland enacts—**

## **Chapter 1      Preliminary**

### **1      Short title**

This Act may be cited as the *Transport and Other Legislation Amendment Act (No. 2) 2010*.

### **2      Commencement**

- (1) The following provisions commence on the day the declaration of QR Limited ACN 124649967 as a GOC is revoked under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*, section 11A—
  - (a) section 24;
  - (b) chapter 2, part 8, other than section 33;
  - (c) section 69;
  - (d) section 77.
- (2) Section 74, other than to the extent it inserts new chapter 13, part 2, commences on the day a gazette notice is made under the *Transport Infrastructure Act 1994*, section 438A as inserted by section 74 of this Act.
- (3) The following provisions commence on the day the declaration of the Port of Brisbane Corporation Limited ACN 124048522 as a port authority is revoked under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*, section 11A—
  - (a) section 84;
  - (b) chapter 2, part 19.
- (4) The following provisions commence on the day Queensland Rail Limited ACN 132181090 is declared to be a GOC by a



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regulation made under the *Government Owned Corporations Act 1993*, section 72—

- (a) chapter 2, part 25;
  - (b) chapter 2, part 26.
- (5) The following provisions commence on a day to be fixed by proclamation—
- (a) chapter 4, part 1;
  - (b) chapter 4, part 5;
  - (c) section 230;
  - (d) chapter 4, part 9;
  - (e) section 277.

## **Chapter 2**      **Amendments relating to rail and Port of Brisbane**

### **Part 1**              **Amendment of Anti-Discrimination Act 1991**

#### **3**      **Act amended**

This part amends the *Anti-Discrimination Act 1991*.

#### **4**      **Amendment of s 106A (Compulsory retirement age under legislation etc.)**

Section 106A(1)(i) and (j)—

*omit.*

[s 5]

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## **Part 2**                      **Amendment of Coastal Protection and Management Act 1995**

### **5**        **Act amended**

This part amends the *Coastal Protection and Management Act 1995*.

### **6**        **Amendment of s 8 (Meaning of *artificial waterway*)**

Section 8(3)(h), after ‘port authority’—  
*insert—*  
‘or port operator’.

### **7**        **Amendment of s 32 (Public notice inviting submissions on draft State plan)**

- (1) Section 32(3)(a), ‘and port authority’—  
*omit, insert—*  
‘, port authority and port operator’.
- (2) Section 32(4), ‘or port authority’—  
*omit, insert—*  
‘, port authority or port operator’.

### **8**        **Amendment of s 36 (Content of regional plans)**

Section 36(2)(b), after ‘port authority’—  
*insert—*  
‘, port operator’.

---

**9 Amendment of s 37 (Public notice of proposal to prepare draft regional plan)**

Section 37(3)(a), ‘and port authority’—  
*omit, insert*—  
‘, port authority and port operator’.

**10 Amendment of s 39 (Public notice inviting submissions on draft regional plan)**

- (1) Section 39(3)(a), ‘and port authority’—  
*omit, insert*—  
‘, port authority and port operator’.
- (2) Section 39(4), ‘or port authority’—  
*omit, insert*—  
‘, port authority or port operator’.

**11 Amendment of s 43 (Public notice of proposal to review coastal plan)**

Section 43(3)(a), ‘and port authority’—  
*omit, insert*—  
‘, port authority and port operator’.

**12 Amendment of s 45 (Public notice inviting submissions on new draft coastal plan)**

- (1) Section 45(3)(a), ‘and port authority’—  
*omit, insert*—  
‘, port authority and port operator’.
- (2) Section 45(4), ‘or port authority’—  
*omit, insert*—  
‘, port authority or port operator’.

[s 13]

---

**13 Amendment of s 48 (Implementation of coastal plans)**

Section 48(2), after ‘port authority’—

*insert—*

‘, port operator’.

**14 Amendment of s 57 (Notice declaring, changing or abolishing coastal management district)**

Section 57(3), ‘and port authority’—

*omit, insert—*

‘, port authority and port operator’.

**15 Amendment of s 75 (Criteria for deciding applications)**

Section 75(3)(e), after ‘port authority’—

*insert—*

‘or port operator’.

**16 Amendment of s 89 (What is a dredge management plan)**

Section 89, example, ‘or a port authority’—

*omit, insert—*

‘, port authority or port operator’.

**17 Amendment of schedule (Dictionary)**

Schedule—

*insert—*

‘*port operator* has the meaning given in the *Transport Infrastructure Act 1994*, section 267.’.

---

## Part 3 **Amendment of Coastal Protection and Management Regulation 2003**

### 18 **Regulation amended**

This part amends the *Coastal Protection and Management Regulation 2003*.

### 19 **Amendment of s 9 (Royalty not payable for particular transport-related matters)**

- (1) Section 9(3), after ‘port authority’—  
*insert—*  
‘, port lessor, port lessee or port manager’.
- (2) Section 9(3)(b), after ‘strategic port land’—  
*insert—*  
‘or Brisbane core port land’.

### 20 **Amendment of s 15 (Work that is not prescribed tidal work)**

- (1) Section 15(1)(a)(i), after ‘port authority’—  
*insert—*  
‘or port operator’.
- (2) Section 15(1)(a)(ii), ‘or a port authority’—  
*omit, insert—*  
‘, a port authority or a port operator’.

### 21 **Amendment of sch 5 (Dictionary)**

Schedule 5—

[s 22]

---

*insert—*

*‘Brisbane core port land has the meaning given in the Transport Infrastructure Act 1994, schedule 6.’.*

## **Part 4                      Amendment of Criminal Code**

### **22      Act amended**

This part amends the Criminal Code.

### **23      Amendment of s 1 (Definitions)**

(1) Section 1—

*insert—*

*‘rail GOC see the Transport Infrastructure Act 1994, schedule 6.’.*

(2) Section 1, definition *person employed in the public service*, ‘QR Limited ACN 124649967’—

*omit, insert—*

*‘a rail GOC or a subsidiary of a rail GOC’.*

(3) Section 1, definition *person employed in the public service*, ‘QR Limited.’—

*omit, insert—*

*‘a rail GOC or a subsidiary of a rail GOC.’.*

### **24      Insertion of new pt 9, ch 87**

Part 9—

*insert—*

---

## ‘Chapter 87 Transitional provision for members of QR Group

### ‘724 Employees of members of QR Group taken to be persons employed in public service during interim period

‘(1) During the interim period, the chief executive officer of QR Limited and persons employed by a member of QR Group are taken to be persons employed in the public service.

‘(2) In this section—

*change of ownership* means the beginning of the day notified by the Treasurer by gazette notice for this chapter.

*commencement* means the commencement of this chapter.

*interim period* means the period from the commencement to the change of ownership.

*member of QR Group* means QR Limited or a related body corporate of QR Limited.

*QR Limited* means QR Limited ACN 124 649 967.

*related body corporate* has the meaning given in the Corporations Act.

*Treasurer* means the Minister who administers the *Financial Accountability Act 2009*.’.

## Part 5 Amendment of Electrical Safety Act 2002

### 25 Act amended

This part amends the *Electrical Safety Act 2002*.

[s 26]

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## **26 Amendment of sch 2 (Dictionary)**

(1) Schedule 2—

*insert—*

‘*railway manager* see the *Transport Infrastructure Act 1994*, schedule 6.’.

(2) Schedule 2, definition *electricity entity*, paragraph (c)—

*omit, insert—*

‘(c) a railway manager that is exempted by the Electricity Act, section 20Q from the requirements of section 88A of that Act; or’.

# **Part 6 Amendment of Electrical Safety Regulation 2002**

## **27 Regulation amended**

This part amends the *Electrical Safety Regulation 2002*.

## **28 Amendment of s 165 (Prescribed electricity entities)**

(1) Section 165(1)—

*insert—*

‘(c) both of the following apply—

- (i) it is not named in schedule 6, part 1 or 2 but is an electricity entity under the Act, schedule 2, definition *electricity entity*, paragraph (c);
- (ii) 3 months have elapsed since the later of the following—
  - (A) the entity first becoming an electricity entity;
  - (B) the commencement of this paragraph.’.



- (2) Section 165(2)—  
*omit.*

## Part 7 **Amendment of Electricity Act 1994**

### 29 **Act amended**

This part amends the *Electricity Act 1994*.

### 30 **Amendment of s 20Q (Exemptions for QR Limited and QR Network Pty Ltd)**

- (1) Section 20Q, heading, ‘QR Limited and QR Network Pty Ltd’—  
*omit, insert—*  
**‘rail GOCs, railway managers and their related bodies corporate’.**
- (2) Section 20Q(1), ‘QR Limited and QR Network Pty Ltd’—  
*omit, insert—*  
‘A rail GOC and a subsidiary of a rail GOC’.
- (3) Section 20Q(2), ‘QR Limited and QR Network Pty Ltd are also exempted’—  
*omit, insert—*  
‘The railway manager that operates the nominated network and related bodies corporate of that railway manager are exempted’.
- (4) Section 20Q(3)—  
*renumber* as subsection (5).
- (5) Section 20Q—

[s 30]

---

*insert—*

- ‘(3) Subsection (4) applies if electricity is—
- (a) supplied or sold—
    - (i) by a rail GOC or a subsidiary of a rail GOC to a relevant railway manager; or
    - (ii) by a relevant railway manager to a rail GOC or a subsidiary of a rail GOC; and
  - (b) used—
    - (i) in connection with the building or use of electrical installations and other works, as part of a system of electric traction or for signalling purposes, on rail transport infrastructure or connected to the rail transport infrastructure; or
    - (ii) for powering electric rolling stock and railway signals on rail transport infrastructure.
- ‘(4) Each of the following is exempted from sections 88A and 89 in relation to the supply and sale of the electricity—
- (a) the rail GOC or its subsidiary mentioned in subsection (3)(a)(i);
  - (b) the relevant railway manager mentioned in subsection (3)(a)(ii).’.
- (6) Section 20Q(5) as renumbered, definitions *QR Limited* and *QR Network Pty Ltd*—  
*omit.*
- (7) Section 20Q(5) as renumbered—  
*insert—*  
‘**rail GOC** see the *Transport Infrastructure Act 1994*, schedule 6.  
**railway manager** see the *Transport Infrastructure Act 1994*, schedule 6.



[s 32]

---

## **32 Insertion of new ch 10**

After chapter 9—

*insert—*

# **‘Chapter 10 Transitional provisions for members of QR Group**

## **‘160 Definitions for ch 10**

‘In this chapter—

*change of ownership* means the beginning of the day notified by the Treasurer by gazette notice for this chapter.

*commencement* means the commencement of this chapter.

*interim period* means the period from the commencement to the change of ownership.

*member of QR Group* means QR Limited or a related body corporate of QR Limited.

*QR Limited* means QR Limited ACN 124 649 967.

*related body corporate* has the meaning given in the Corporations Act.

*Treasurer* means the Minister who administers the *Financial Accountability Act 2009*.

## **‘161 Application of s 106 to member of QR Group during interim period**

‘A member of QR Group is taken to be an instrumentality or agency of the State for the purposes of section 106 during the interim period.

## **‘162 Application of s 106 to member of QR Group after change of ownership**

‘(1) Subsection (2) applies if—

- 
- (a) because of section 106, the administration and enforcement of a provision of the Act mentioned in sections 98 to 100 is not devolved to a local government; and
  - (b) immediately before the change of ownership, the administering authority is conducting an investigation under the Act in relation to, or is exercising an enforcement power under the Act against, a member of QR Group; and
  - (c) the investigation or enforcement relates to a provision of the Act mentioned in sections 98 to 100.
- ‘(2) The administering authority may—
- (a) continue to undertake that investigation in relation to, and exercise that enforcement power against, the member of QR Group; and
  - (b) take the further actions it is entitled or empowered to take under the Act after the investigation or exercise of the enforcement power has ended;
- as if the member of QR Group continued to be an instrumentality or agency of the State for the purposes of section 106.
- ‘(3) Subsection (4) applies if—
- (a) because of section 106, the administration and enforcement of a provision of the Act in relation to an environmentally relevant activity is not devolved to a local government; and
  - (b) as at the change of ownership, an application has been properly made by a member of QR Group to the administering authority for approval of the environmentally relevant activity.
- ‘(4) The administering authority may continue to assess and determine the application as if the member of QR Group continued to be an instrumentality or agency of the State for the purposes of section 106.’.

[s 33]

---

**33 Amendment of sch 2 (Chapter 4 activities and aggregate environmental scores)**

Schedule 2, section 50(4), definition *port*—  
*omit, insert*—

‘*port* means the port area for a port under the *Transport Infrastructure Act 1994*, section 267AA.’.

**34 Amendment of sch 12 (Dictionary)**

Schedule 12, part 2—

*insert*—

‘*change of ownership*, for chapter 10, see section 160.

*commencement*, for chapter 10, see section 160.

*interim period*, for chapter 10, see section 160.

*member of QR Group*, for chapter 10, see section 160.

*QR Limited*, for chapter 10, see section 160.

*related body corporate*, for chapter 10, see section 160.

*Treasurer*, for chapter 10, see section 160.’.

## **Part 9 Amendment of Explosives Regulation 2003**

**35 Regulation amended**

This part amends the *Explosives Regulation 2003*.

**36 Amendment of s 60 (Requirements for ports handling explosives)**

Section 60(1), after ‘port authority’—

*insert—*

‘or port operator’.

**37 Amendment of s 61 (Port authority to prepare explosives limits document)**

(1) Section 61, heading, after ‘Port authority’—

*insert—*

**‘or port operator’.**

(2) Section 61, after ‘port authority’—

*insert—*

‘or port operator’.

**38 Amendment of s 62 (How chief inspector must deal with explosives limits document)**

(1) Section 62(1) and (2), after ‘port authority’—

*insert—*

‘or port operator’.

(2) Section 62(3), ‘authority’—

*omit, insert—*

‘port authority or port operator’.

**39 Amendment of s 63 (Changing approved explosives limits)**

Section 63(1) and (2), after ‘port authority’—

*insert—*

‘or port operator’.

[s 40]

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**40 Amendment of s 64 (Chief inspector may impose interim explosives limits)**

Section 64(3), after ‘port authority’—  
*insert—*  
‘or port operator’.

**41 Amendment sch 7 (Dictionary)**

Schedule 7—  
*insert—*  
‘*port operator* has the meaning given in the *Transport Infrastructure Act 1994*, section 267.’.

**Part 10 Amendment of Judicial Review Act 1991**

**42 Act amended**

This part amends the *Judicial Review Act 1991*.

**43 Insertion of new s 18C**

Part 1, division 5—  
*insert—*

**‘18C Application of Act to State and relevant entity under Transport Infrastructure Act 1994**

‘(1) This Act does not apply to a decision of the State or a relevant entity made in carrying out its functions under the *Transport Infrastructure Act 1994*, chapter 8, part 3A.

‘(2) In this section—  
*functions* includes powers.



---

*relevant entity* see the *Transport Infrastructure Act 1994*, section 279A.’.

**44 Amendment of sch 6 (Application of Act to GOCs)**

Schedule 6, item 1, ‘QR Limited ACN 124649967’—

*omit, insert—*

‘a rail GOC (within the meaning of the *Transport Infrastructure Act 1994*)’.

## **Part 11 Amendment of Land Act 1994**

**45 Act amended**

This part amends the *Land Act 1994*.

**46 Amendment of s 12 (Inundated land)**

(1) Section 12(5) after ‘a port authority’—

*insert—*

‘, port lessor, port lessee or port manager’.

(2) Section 12(5) ‘or port authority’—

*omit, insert—*

‘, port authority, port lessor, port lessee or port manager’.

**47 Amendment of s 504 (Changing tenures of port lands)**

(1) Section 504(1), after ‘a port authority’—

*insert—*

‘or port lessor’.

(2) Section 504(1), after ‘the port authority’—

[s 48]

---

*insert—*

‘or port lessor’.

(3) Section 504—

*insert—*

‘(1A) An order in council under subsection (1) may set the rent for a lease of the land.

‘(1B) Without limiting subsection (1A), rent set under this section may be set at zero dollars in total or for a rental period.

‘(1C) Sections 182, 183, 183A, 183AA, 184 and chapter 5, part 1, division 2 do not apply to a lease for which rent is set under this section.’.

(4) Section 504(2), after ‘port authority’—

*insert—*

‘, port lessor’.

## **48 Amendment sch 6 (Dictionary)**

(1) Schedule 6—

*insert—*

**‘port lessee** has the meaning given in the *Transport Infrastructure Act 1994*, section 267.

**port lessor** has the meaning given in the *Transport Infrastructure Act 1994*, section 267.

**port manager** has the meaning given in the *Transport Infrastructure Act 1994*, section 267.’.

(2) Schedule 6, definition *sublease*—

*omit, insert—*

**‘sublease** includes—

(a) for trust land—a sub-sublease; and

- (b) for other land—any derivative under lease, including, for example, a sub-sub-sublease.’.

## **Part 12                      Amendment of Mineral Resources Act 1989**

### **49      Act amended**

This part amends the *Mineral Resources Act 1989*.

### **50      Amendment of schedule (Dictionary)**

- (1) Schedule—

*insert—*

‘*rail GOC* see the *Transport Infrastructure Act 1994*, schedule 6.’.

- (2) Schedule, definition *reserve*, paragraph (a)(vii)(B)—

*omit, insert—*

‘(B) QR Limited ACN 124 649 967; or

(BA) a rail GOC or a subsidiary of a rail GOC; or’.

## **Part 13                      Amendment of Nature Conservation (Wildlife Management) Regulation 2006**

### **51      Regulation amended**

This part amends the *Nature Conservation (Wildlife Management) Regulation 2006*.

[s 52]

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**52 Amendment of s 40 (Particular government officers or employees)**

- (1) Section 40(1)(b)—  
*omit, insert—*  
'(b) a rail GOC; or'.
- (2) Section 40(4), definition *QR Limited*—  
*omit.*
- (3) Section 40(4), definition *officer or employee of QR Limited*,  
'*employee of QR Limited*'—  
*omit, insert—*  
'*employee of a rail GOC*'.
- (4) Section 40(4), definition *officer or employee of QR Limited*,  
paragraphs (a) to (c), 'QR Limited'—  
*omit, insert—*  
'the rail GOC'.
- (5) Section 40(4), definition *public land*, paragraph (d)—  
*omit, insert—*  
'(d) a railway managed by a rail GOC or a subsidiary of a  
rail GOC.'

**53 Insertion of new s 40A**

After section 40—  
*insert—*

**'40A Exemptions for railway managers**

- '(1) A railway officer of a railway manager may, without a wildlife authority for taking the animal or a wildlife movement permit, and on the conditions the chief executive decides and notifies to the railway manager—
  - (a) take a dead protected animal from a railway managed by the railway manager to a place; and

- 
- (b) move the dead animal from the place to which the animal is taken to another place.
- ‘(2) The conditions may include—
- (a) the manner in which the animal is to be dealt with following its taking or movement; and
  - (b) the records the railway manager must keep for things done under subsection (1), the manner in which the records are kept and access to the records.
- ‘(3) This section does not apply to a rail GOC or a subsidiary of a rail GOC.
- ‘(4) In this section—
- railway manager* see the *Transport Infrastructure Act 1994*, schedule 6.
- railway officer*, of a railway manager, means—
- (a) an employee or contractor of the railway manager; or
  - (b) an employee or contractor of a related body corporate of a railway manager; or
  - (c) an employee of a contractor mentioned in paragraph (a) or (b); or
  - (d) another person approved by the chief executive by written notice to the railway manager.
- related body corporate* has the meaning given in the Corporations Act.’.

## 54 Amendment of sch 4 (Dictionary)

Schedule 4—

*insert*—

‘*rail GOC* see the *Transport Infrastructure Act 1994*, schedule 6.’.

## **Part 14**                      **Amendment of Right to Information Act 2009**

### **55**      **Act amended**

This part amends the *Right to Information Act 2009*.

### **56**      **Insertion of new ch 8**

After chapter 7—

*insert—*

## **‘Chapter 8**                      **Transitional provisions for members of QR Group**

### **‘207**      **Definitions for ch 8**

‘In this chapter—

*change of ownership* means the beginning of the day notified by the Treasurer by gazette notice for this chapter.

*commencement* means the commencement of this chapter.

*interim period* means the period from the commencement to the change of ownership.

*member of QR Group* means QR Limited or a related body corporate of QR Limited.

*QR Limited* means QR Limited ACN 124 649 967.

*related body corporate* has the meaning given in the Corporations Act.

*Treasurer* means the Minister who administers the *Financial Accountability Act 2009*.

---

**‘208 Application of Act to members of QR Group during interim period**

‘A member of QR Group is taken to be an agency for the purposes of this Act during the interim period.

**‘209 Certain provisions continue to apply until change of ownership despite their repeal**

‘Until the change of ownership—

- (a) schedule 2, part 2, items 16, 17 and 18 as they were in force immediately before the commencement continue to apply, despite their repeal, to a member of QR Group; and
- (b) schedule 2, part 2, item 16 as in force on the commencement does not apply to a member of QR Group.’.

**57 Amendment of sch 2 (Entities to which this Act does not apply)**

Schedule 2, part 2, items 16, 17 and 18—

*omit, insert—*

- ‘16 a rail GOC (within the meaning of the *Transport Infrastructure Act 1994*), or a subsidiary of a rail GOC, in relation to freight or insurance operations, except so far as they relate to community service obligations’.

**58 Amendment of sch 6 (Dictionary)**

- (1) Schedule 6, definition *QR freight operations*—

*omit.*

- (2) Schedule 6—

*insert—*

‘*change of ownership*, for chapter 8, see section 207.

[s 59]

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*commencement*, for chapter 8, see section 207.

*interim period*, for chapter 8, see section 207.

*member of QR Group*, for chapter 8, see section 207.

*QR Limited*, for chapter 8, see section 207.

*related body corporate*, for chapter 8, see section 207.

*Treasurer*, for chapter 8, see section 207.’.

## **Part 15**                      **Amendment of South Bank Corporation Act 1989**

### **59**      **Act amended**

This part amends the *Southbank Corporation Act 1989*.

### **60**      **Amendment of s 3 (Definitions)**

Section 3—

*insert*—

‘*rail GOC* see the *Transport Infrastructure Act 1994*, schedule 6.’.

### **61**      **Amendment of s 17 (Vesting of public lands other than roads)**

Section 17(4), definition *land*, ‘QR Limited ACN 124649967’—

*omit, insert*—

‘a rail GOC or a subsidiary of a rail GOC’.



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**62 Amendment of s 38 (Continuance of railway operations)**

- (1) Section 38(1)(a), ‘QR Limited’—  
*omit, insert—*  
‘a rail GOC or a subsidiary of a rail GOC’.
- (2) Section 38(2), definition *QR Limited*—  
*omit.*
- (3) Section 38(2), definition *railway manager*, ‘by QR Limited’—  
*omit, insert—*  
‘by a rail GOC or a subsidiary of a rail GOC’.
- (4) Section 38(2), definition *railway manager*, ‘with QR Limited’—  
*omit, insert—*  
‘with the rail GOC or the subsidiary of the rail GOC’.
- (5) Section 38(2), definition *railway operator*, ‘QR Limited’—  
*omit, insert—*  
‘a rail GOC or a subsidiary of a rail GOC’.

**Part 16 Amendment of Sustainable  
Planning Act 2009**

**63 Act amended**

This part amends the *Sustainable Planning Act 2009*.

**64 Amendment of s 347 (Conditions that can not be imposed)**

Section 347(2)(a)(ii), after ‘railways’—

[s 65]

---

*insert—*

‘ports or airports’.

**65 Amendment of s 456 (Court may make declarations and orders)**

(1) Section 456(1)(d)—

*renumber* as section 456(1)(e).

(2) Section 456(1)—

*insert—*

‘(d) the construction of the Brisbane port LUP under the Transport Infrastructure Act;’.

## **Part 17 Amendments of Transport Infrastructure Act 1994 relating to rail**

**66 Act amended**

This part amends the *Transport Infrastructure Act 1994*.

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

Section 2(2)(d)(vi)—

*omit*.

**68 Amendment of s 20 (Transport GOCs)**

(1) Section 20(1), ‘QR Limited and each’—

*omit, insert—*

‘each rail GOC and each GOC’.

- (2) Section 20(2), ‘QR Limited or a’—  
*omit, insert—*  
‘A rail GOC or a GOC’.

**69 Insertion of new s 244A**

After section 244—  
*insert—*

**‘244A Duplicated and replacement rail infrastructure on land**

- ‘(1) This section applies if at the commencement of this section—
- (a) rail transport infrastructure has been constructed or installed on land mentioned in section 244(1)(a) or on land adjacent to that land; and
  - (b) the rail transport infrastructure augments, duplicates or replaces rail transport infrastructure to which section 244 applied.
- ‘(2) After the commencement of this section—
- (a) the rail transport infrastructure may stay on the land; and
  - (b) the railway manager may—
    - (i) alter the rail transport infrastructure; and
    - (ii) manage the railway using the rail transport infrastructure, whether or not altered; and
    - (iii) operate, or authorise a railway operator to operate, rolling stock on the railway.
- ‘(3) A person has no interest in, or right to, the rail transport infrastructure (whether or not altered) on land only because the person has an interest in the land.’

[s 70]

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**70 Omission of s 246 (Railway works on corridor land)**

Section 246—

*omit.*

**71 Replacement of s 248 (QR Limited and wholly owned subsidiaries not common carriers)**

Section 248—

*omit, insert—*

**'248 Rail GOC and wholly owned subsidiary not common carrier**

'Neither of the following is a common carrier—

- (a) a rail GOC;
- (b) a wholly owned subsidiary of a rail GOC.

*Note—*

See also section 561 in relation to QR Limited and subsidiaries of QR Limited.'

**72 Amendment of s 260 (Works for existing railways)**

- (1) Section 260(2), (3), and (8), 'QR Limited'—

*omit, insert—*

'The relevant railway manager'.

- (2) Section 260(4), 'QR Limited'—

*omit, insert—*

'the relevant railway manager'.

- (3) Section 260(6), 'QR Limited's'—

*omit, insert—*

'the relevant railway manager's'.

- (4) Section 260(7), 'QR Limited', first mention—

*omit, insert—*

---

‘The relevant railway manager’.

(5) Section 260(7)(a) and (b), ‘QR Limited’—

*omit, insert—*

‘the relevant railway manager’.

(6) Section 260(9), ‘QR Limited’—

*omit, insert—*

‘the relevant railway manager’.

(7) Section 260—

*insert—*

‘(13) In this section—

‘*relevant railway manager* means the railway manager for the existing railway.’.

**73 Omission of s 260A (Transfer of obligations for existing railway to new railway manager)**

Section 260A—

*omit.*

**74 Replacement of ch 13 (Function of QR Limited)**

Chapter 13—

*omit, insert—*

**‘Chapter 13 Shareholding requirements and business location obligations for QR National**

**‘Part 1 Interpretation**

## **‘438 Definitions for ch 13**

‘In this chapter—

*prohibited shareholding interest* see section 438C.

*QR National* means the entity declared by the Treasurer under section 438A.

*relevant interest* see section 438B(1).

*relevant person* means the Minister, a director of QR National or a secretary of QR National.

## **‘Part 2 Declaration of QR National**

### **‘438A Treasurer to declare QR National by gazette notice**

‘The Treasurer must, by gazette notice made within 6 months after the commencement of this section, state the entity that is, or is to be, the ultimate holding company of QR Limited ACN 124 649 967.

## **‘Part 3 Regulation of shareholding interests**

### **‘438B Matters relating to relevant interests in shares**

- ‘(1) For this part, a person has a *relevant interest* in a share only if the person would be taken to have a relevant interest in the share because of the Corporations Act, sections 608 and 609.
- ‘(2) For this part, the voting power a person, including QR National, has in QR National is the person’s voting power determined in accordance with the Corporations Act, section 610 as if a reference in that section to a relevant interest were a reference to a relevant interest mentioned in subsection (1).
- ‘(3) The Treasurer may, by gazette notice, provide that relevant interests, or particular classes of relevant interests, in shares, or in particular classes of shares, must be disregarded—

- (a) in the circumstances and subject to any conditions stated in the gazette notice; and
- (b) for the purposes stated in the gazette notice.

#### **'438C Prohibited shareholding interest**

- '(1) A person has a *prohibited shareholding interest* if the person has a voting power of more than 15% in QR National.
- '(2) A person must not have a prohibited shareholding interest.
- '(3) For this part, QR National and subsidiaries of QR National are taken not to have a prohibited shareholding interest.
- '(4) QR National must take all reasonable steps to ensure that no person obtains or maintains a prohibited shareholding interest.

#### **'438D Power to require information relating to entitlement to shares in QR National**

- '(1) A relevant person may, by notice in writing served on a person who has, or is suspected by the relevant person of having, a relevant interest in shares in QR National, require the person to give information stated in the notice for the purpose of determining whether that person or any other person has, or is taking action to acquire, a prohibited shareholding interest.
- '(2) A notice under subsection (1) may require the person on whom the notice is served or, if that person is a corporation, a director of the corporation, to verify by statutory declaration any information given in compliance with the notice.

#### **'438E Remedial orders**

- '(1) Subsection (2) applies if a person has, or is reasonably suspected by a relevant person of having, a prohibited shareholding interest.
- '(2) The Supreme Court may, on an application made by the Minister or QR National, make the orders the court considers

[s 74]

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appropriate to stop the person benefiting from that interest and to procure compliance with this part, including the following orders—

- (a) an order directing the disposal of shares;
- (b) an order restraining the exercise of any rights attached to shares;
- (c) an order prohibiting or deferring the payment of any sums due to a person in relation to shares held by the person;
- (d) an order that any exercise of rights attached to shares has no effect.

‘(3) Without limiting the orders the Supreme Court may make under subsection (2), the court may—

- (a) for the purpose of procuring compliance with any other order made under this section, make an order directing any person to do or refrain from doing a stated act; and
- (b) make an order containing the ancillary or consequential provisions the court thinks fit.

‘(4) The Supreme Court may, before making an order under this section, direct that either or both of the following happen—

- (a) notice of the application be given to the persons the court thinks fit;
- (b) notice of the application be published in the manner the court thinks fit.

‘(5) The Supreme Court may, by order, rescind, vary, discharge or suspend the operation of an order made by it under this section.



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## **‘Part 4 Business location obligations**

### **‘438F Business location obligations**

- ‘(1) QR National must—
- (a) ensure at least half of the board meetings of QR National in each year are held in Queensland; and
  - (b) ensure the central management and control of QR National is ordinarily exercised in Queensland, including through maintaining in Queensland the principal operational offices of the following company personnel, however described—
    - (i) managing director;
    - (ii) chief executive officer;
    - (iii) chief financial officer;
    - (iv) company secretary; and
  - (c) ensure corporate services are provided through offices in Queensland to the extent the corporate services primarily relate to the operations of QR National and its subsidiaries undertaken in Queensland; and
  - (d) ensure QR National’s annual general meeting is held in Queensland at least every 2 years; and
  - (e) maintain a substantial operational presence in Queensland.
- ‘(2) For subsection (1)(e), QR National maintains a substantial operational presence in Queensland if QR National and its subsidiaries have the following operations undertaken principally in Queensland—
- (a) the operation and maintenance of rail track infrastructure located in Queensland;
  - (b) the operation and maintenance of rolling stock primarily used in Queensland;

[s 75]

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- (c) the provision of services directly associated with the operations mentioned in paragraphs (a) and (b).’.

**75 Amendment of s 486 (Application of Judicial Review Act 1991)**

- (1) Section 486, heading, after ‘1991’—

*insert—*

**‘to a transport GOC’.**

- (2) Section 486(3), definition *transport GOC*, ‘a GOC’—

*omit, insert—*

‘a rail GOC, a GOC port authority, or another GOC’.

**76 Omission of s 550 (Application of s 260A in relation to transfer of sublease 701720343)**

Section 550—

*omit.*

**77 Insertion of new ch 19**

After chapter 18—

*insert—*

**‘Chapter 19 Transitional provisions for members of QR Group**

**‘559 Definitions for ch 19**

‘In this chapter—

*commencement* means the commencement of this chapter.

*member of QR Group* means QR Limited or a related body corporate of QR Limited.

**‘560 Application of Judicial Review Act 1991 to member of QR Group during interim period**

‘(1) The *Judicial Review Act 1991* does not apply to a decision of a member of QR Group made during the interim period in carrying out any activity.

‘(2) In this section—

*change of ownership* means the beginning of the day notified by the Treasurer for this chapter.

*interim period* means the period from the commencement to the change of ownership.

**‘561 Member of QR Group as common carrier**

‘(1) Subsection (2) applies to a contract for the carriage of persons or things entered into by a member of QR Group before the commencement.

‘(2) A member of QR Group is taken not to be a common carrier under the contract unless the contract states that the member of QR Group is a common carrier.

‘(3) This section applies despite section 248.’.

**78 Amendment of sch 6 (Dictionary)**

(1) Schedule 6—

*insert—*

‘*member of QR Group*, for chapter 19, see section 559.

*prohibited shareholding interest*, for chapter 13, see section 438.

*QR National*, for chapter 13, see section 438.

*rail GOC* means a GOC the principal business of which is to do either or both of the following—

- (a) manage a railway;
- (b) operate rolling stock on a railway.

[s 79]

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*relevant interest*, for chapter 13, see section 438.’.

(2) Schedule 6, definition *commencement*—

*omit, insert*—

‘*commencement*—

‘(a) for chapter 18, part 3, see section 521; or

(b) for chapter 18, part 5, see section 532; or

(c) for chapter 19, see section 559.’.

(3) Schedule 6—

*insert*—

‘*relevant person*, for chapter 13, see section 438.’.

## Part 18                      Amendment of Transport Infrastructure Act 1994 relating to Port of Brisbane

### 79      Act amended

This part amends the *Transport Infrastructure Act 1994*.

### 80      Amendment of s 267 (Definitions for chapter)

(1) Section 267, definitions *charge* and *port area*—

*omit*.

(2) Section 267—

*insert*—

‘*charge* means an amount charged by a port authority or relevant entity.

---

**completion day**, in relation to the Port of Brisbane, means the beginning of the day of the first declaration of a port lessee for the port under section 289Y.

**Land Act** means the *Land Act 1994*.

**lease** includes a sublease.

**port agreement** see section 279B.

**port area** see section 267AA.

**port entity**—

- (a) in relation to a port, other than the Port of Brisbane, means the port authority; or
- (b) in relation to the Port of Brisbane, means each of the following—
  - (i) the port lessor;
  - (ii) a port lessee;
  - (iii) a port manager.

**port lessee** means an entity declared to be a port lessee under section 289Y.

**port lessor** means an entity declared to be the port lessor under section 289Y.

**port manager** means an entity appointed as a port manager under section 289ZA.

**port operator** means—

- (a) a port lessee or port manager to whom functions have been delegated under section 289Z; or
- (b) otherwise—the port lessor.

**port services** includes the following services relating to the management of a port area or port facilities—

- (a) monitoring and management of the movement of vessels, vehicles, goods and people in the port area;
- (b) services in relation to port facilities;

[s 80]

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- (c) services in relation to dredging;
- (d) services in relation to reclaiming land;
- (e) management, monitoring or administration of the use of, and access to, port facilities;
- (f) security services and security monitoring services in the port area;
- (g) services relating to the safety of persons or things in the port area;
- (h) services relating to the preservation of the environment;
- (i) issuing, and monitoring the use of, security identification;
- (j) traffic control services;
- (k) emergency services;
- (l) processing applications, reporting information and attending to other administrative matters for the management of the port.

**port user** includes the following—

- (a) the owner, master or agent of the owner of a vessel or vehicle using port facilities or port services;
- (b) the owner, consignor or consignee or person entitled to possession of goods located in or passing through the port area;
- (c) the agent of a person mentioned in paragraph (b);
- (d) a lessee or licensee of any part of the port area (other than a port operator or the port lessor) and their invitees.

**relevant entity** see section 279A(1).

**sublease** includes the following—

- (a) any derivative under lease;
- (b) a concurrent lease;
- (c) a concurrent lease of any derivative under lease.

*trade lease* means a lease of land under the Land Act that was transferred, whether before or after the commencement of section 477C, from the Port of Brisbane Corporation to the Urban Land Development Authority under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

*vessel* includes a boat, ship, seaplane, hovercraft or amphibious craft.’.

## 81 Insertion of new s 267AA

After section 267—

*insert—*

### ‘267AA Meaning of *port area*

‘(1) *Port area—*

- (a) of a port authority for a port, means the area of its strategic port land and port facilities, and within its port limits; or
- (b) of a port entity other than a port authority, means each of the following—
  - (i) the area of Brisbane core port land;
  - (ii) the area of its port facilities;
  - (iii) the area within its port limits;
  - (iv) another area prescribed by regulation.

‘(2) However, a port area mentioned in subsection (1)(b) does not include an area prescribed by regulation not to be part of the port area for that port.

‘(3) A regulation may define or amend the limits of the Port of Brisbane.’.

## 82 Replacement of s 267A (Meaning of *port facilities*)

Section 267A—

*omit, insert—*

## **‘267A Meaning of *port facilities***

### **‘(1) *Port facilities*—**

- (a) of a port authority, means the facilities or land that are—
  - (i) owned or controlled by—
    - (A) the port authority; or
    - (B) if the port authority is a GOC port authority—a wholly owned subsidiary of the port authority; and
  - (ii) used in the operation or strategic management of the port authority’s port; or
- (b) of a port entity other than a port authority, means the facilities or land that are—
  - (i) owned or controlled by a port entity other than a port authority, or leased or licensed to or occupied by, or constructed, managed, provided or maintained by a port entity other than a port authority; and
  - (ii) used or intended to be used in connection with the management, operation, development, maintenance of, or access to, the port entity’s port.

‘(2) For subsection (1)(b), a lease or licence of land or facilities granted, or other provision for the use of or access to land or facilities made, by a port entity other than a port authority for the benefit of a person is to be disregarded.

‘(3) Port facilities for a port entity other than a port authority also include land or facilities prescribed by regulation to be port facilities.

‘(4) Port facilities for a port entity other than a port authority do not include land or facilities prescribed by regulation not to be port facilities.

### *Examples of port facilities—*

- wharf and port marine operational areas and shipping channels within port limits



- marine and port structures
- berths and berth pockets
- ship building facilities and dry docks
- offshore structures used for shipping purposes
- wharf protection devices
- hydraulic structures
- bulk loading and unloading facilities
- boat harbours and boat ramps
- vehicle and railway ferry terminals, oil and liquid product terminals and other terminals within the port area
- access roads and rail corridors
- roads, access corridors and flyovers
- conveyors
- pipelines
- weighbridges
- monitoring facilities
- security facilities
- communication facilities
- material handling or disposal areas
- vehicle parking facilities
- an airport
- public, community and visitor facilities
- partially completed reclamation areas in areas designated as future strategic port land
- partially completed port facilities’.

**83 Amendment of s 274 (Regulation may define port limits etc.)**

Section 274(a), after ‘port’—

[s 84]

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*insert—*

‘, other than the Port of Brisbane’.

#### **84 Amendment of s 275 (Functions of port authorities)**

(1) Section 275(1)(f)(ii)—

*omit.*

(2) Section 275(1)(f)(iii), ‘and Port of Brisbane Corporation Limited’—

*omit.*

(3) Section 275(1)(f)(iii), ‘subparagraphs (i) and (ii)’—

*omit, insert—*

‘subparagraph (i)’.

(4) Section 275(4), definition *Port of Brisbane Corporation Limited*—

*omit.*

#### **85 Amendment of s 277 (Powers of port authorities subject to Marine Safety Act)**

(1) Section 277, heading, after ‘port authorities’—

*insert—*

‘**or port lessor**’.

(2) Section 277(1), after ‘port authority’—

*insert—*

‘or port lessor’.

#### **86 Insertion of new ss 279A and 279B**

After section 279—

*insert—*

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### **‘279A Relevant entity may impose charges**

- ‘(1) The port lessor, a port lessee or a port manager (a *relevant entity*) may impose charges in relation to port services and port facilities, including in relation to—
- (a) the acquisition, establishment, construction, improvement, operation and maintenance of port facilities; and
  - (b) works relating to port facilities including dredging and disposal of dredged material and reclamation of land.
- ‘(2) Subsection (1) is subject to—
- (a) any conditions or limitations on charges in any port agreement to which the relevant entity is a party; and
  - (b) any agreement between the relevant entity and a port user.
- ‘(3) The relevant entity must maintain a website and must publish its standard charges and conditions on the website.
- ‘(4) A charge may not be imposed on a person who is exempt from payment of the charge under—
- (a) subject to section 279B(4), a port agreement to which the relevant entity is a party; or
  - (b) a regulation made under section 281C.
- ‘(5) This section does not limit the powers or rights that the relevant entity has apart from this section, except to the extent stated in this section.

### **‘279B Port agreement**

- ‘(1) The Minister may, for the State, enter into an agreement (a *port agreement*) with a relevant entity about charges imposed by the relevant entity under section 279A.
- ‘(2) Without limiting subsection (1), a port agreement may—

[s 87]

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- (a) provide for exemptions, or partial exemptions, from payment of charges, including interest on charges, imposed by the relevant entity; or
- (b) impose obligations or conditions in relation to the provision of port services or port facilities or the exercise of powers by the relevant entity under section 279A.

*Example—*

A port agreement may oblige a relevant entity to undertake stated capital or maintenance works as a condition of imposing charges.

- ‘(3) Subsection (2)(a) does not limit the power of a relevant entity to otherwise exempt or partially exempt a person from a charge, including any interest on a charge, imposed by the relevant entity.
- ‘(4) If there is an inconsistency between the port agreement and a regulation made under section 281C, the regulation prevails to the extent of the inconsistency.
- ‘(5) The Minister must table each port agreement, and each amendment of a port agreement, in the Legislative Assembly as soon as practicable after it is entered into.
- ‘(6) In this section—

*Minister* means the Minister who administers this section or the Treasurer.’.

## **87 Amendment of s 281C (Payment of a charge and interest on an unpaid charge)**

- (1) Section 281C(1), after ‘port authority’—  
*insert—*  
‘or relevant entity’.
- (2) Section 281C(1), ‘the authority’—  
*omit, insert—*

‘the port authority or relevant entity’.

- (3) Section 281C(2), ‘the authority’—

*omit, insert—*

‘the port authority or relevant entity’.

- (4) Section 281C(3), after ‘port authority’—

*insert—*

‘or relevant entity’.

- (5) Section 281C(5), after ‘port authority’—

*insert—*

‘or relevant entity’.

**88 Amendment of s 281D (Liability for movement of ships, vehicles, goods or rolling stock)**

- (1) Section 281D(1), after ‘a port authority’—

*insert—*

‘or port operator’.

- (2) Section 281D(1), after ‘the port authority’—

*insert—*

‘or port lessor’.

- (3) Section 281D(2), after ‘the port authority’—

*insert—*

‘or port operator’.

**89 Amendment of s 281E (Liability for damage to port authority’s port facilities)**

- (1) Section 281E, heading, ‘port authority’s’—

*omit.*

- (2) Section 281E(1) and (2), ‘a port authority’s’—

[s 90]

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*omit.*

(3) Section 281E(3)—

*omit, insert—*

‘(3) A port entity may recover its reasonable cost of rectifying the damage as a debt payable to the entity.’.

**90 Amendment of s 281F (Security for payment of charges and potential liabilities)**

(1) Section 281F, ‘port authority’—

*omit, insert—*

‘port entity’.

(2) Section 281F(1), after ‘be incurred,’—

*insert—*

‘to it’.

(3) Section 281F(6), ‘under’—

*omit, insert—*

‘to it under’.

**91 Amendment of s 282 (Port authority may control activities by port notice)**

(1) Section 282, heading, after ‘Port authority’—

*insert—*

**‘or port lessor’.**

(2) Section 282, after ‘port authority’—

*insert—*

‘or port lessor’.

(3) Section 282(1)(b) and (2)(e), after ‘land’—

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*insert—*

‘or Brisbane core port land’.

## **92 Insertion of new s 282AA**

After section 282—

*insert—*

### **‘282AA Port lessor may give port notice requiring information**

- ‘(1) The port lessor may display or publish a port notice requiring a person or class of persons to produce to the port lessor or port lessor’s delegate, information relevant to the following—
- (a) the provision or use of port services;
  - (b) the calculation of charges;
  - (c) the provision, use or preservation of port facilities;
  - (d) the management, operation, safety, security or efficiency of the port;
  - (e) information requested by a Commonwealth or State entity.
- ‘(2) For subsection (1), the information requested may include the following—
- (a) a description of vessels, vehicles, goods and commodities entering or located in the port area;
  - (b) data about the movement of vessels, vehicles or passengers and the movement and storage of goods and commodities;
  - (c) information about the efficiency of operations and other logistical matters.’

## **93 Amendment of s 282A (Port notice—movement or mooring of, or activities on or by, ships)**

Section 282A, after ‘port authority’—

[s 94]

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*insert—*

‘or port lessor’.

**94 Amendment of s 282C (Port notice—movement, handling or storage of goods)**

Section 282C, after ‘port authority’—

*insert—*

‘or port lessor’.

**95 Amendment of s 282D (Port notice—movement of persons)**

Section 282D, after ‘port authority’—

*insert—*

‘or port lessor’.

**96 Amendment of s 282E (Port notice—parking or stopping of vehicles)**

(1) Section 282E(1), after ‘port authority’—

*insert—*

‘or port lessor’.

(2) Section 282E(1), ‘or strategic port land’—

*omit, insert—*

‘, strategic port land or Brisbane core port land’.

(3) Section 282E(2), after ‘port authority’s’—

*insert—*

‘or port lessor’s’.



**97 Amendment of s 282F (Port notice—movement, stopping or parking of rolling stock)**

Section 282F, after ‘port authority’—

*insert—*

‘or port lessor’.

**98 Amendment of s 282G (Display or publication of port notices)**

(1) Section 282G(1)(b), after ‘port authority’s’—

*insert—*

‘, port lessor’s or port lessor’s delegate’s’.

(2) Section 282G(2), after ‘port authority’—

*insert—*

‘or port lessor’.

(3) Section 282G(3), after ‘port authority’—

*insert—*

‘, port lessor or port lessor’s delegate’.

**99 Amendment of s 282H (Port notice may refer to documents held by port authority)**

(1) Section 282H, heading, after ‘port authority’—

*insert—*

‘, port lessor or port lessor’s delegate’.

(2) Section 282H(1), (3) and (4), after ‘port authority’—

*insert—*

‘, port lessor or port lessor’s delegate’.

[s 100]

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**100 Amendment of s 282I (Port notices generally)**

Section 282I(2), after ‘port authority’—

*insert—*

‘or port lessor’.

**101 Amendment of s 282K (Appointment and qualifications of authorised officers)**

Section 282K, after ‘port authority’—

*insert—*

‘or port lessor’.

**102 Amendment of s 282L (Appointment conditions and limit on powers)**

Section 282L(3), definition *signed notice*, from ‘signed by’—

*omit, insert—*

‘signed by—

- (a) the port lessor or port lessor’s delegate; or
- (b) an officer of the port authority, port lessor or port lessor’s delegate who is authorised by the entity to sign notices.’

**103 Amendment of s 282M (Issue of identity card)**

Section 282M, after ‘port authority’—

*insert—*

‘or port lessor’.

**104 Amendment of s 282P (Return of identity card)**

- (1) Section 282P, after ‘a port authority’—

*insert—*

‘or port lessor’.

- (2) Section 282P, after ‘the port authority’—  
*insert—*  
‘, port lessor or port lessor’s delegate’.

**105 Amendment of s 282Q (Authorised officer may give directions)**

- (1) Section 282Q(1), after ‘port authority’—  
*insert—*  
‘or port lessor’.
- (2) Section 282Q(1), after ‘the port authority’s’, first mention—  
*insert—*  
‘or port lessor’s’.
- (3) Section 282Q(1)(a) and (2)(b), ‘the port authority’s’—  
*omit, insert—*  
‘a port entity’s’.

**106 Amendment of s 282T (Moving contravening property)**

- (1) Section 282T(1), after ‘port authority’—  
*insert—*  
‘or port lessor’.
- (2) Section 282T(1)(b)(ii), ‘the port authority’s’—  
*omit, insert—*  
‘a port entity’s’.

**107 Amendment of s 283 (Power to require name and address)**

- (1) Section 283(1), after ‘port authority’—

[s 108]

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*insert—*

‘or port lessor’.

- (2) Section 283(1), after ‘port authority’s’—

*insert—*

‘or port lessor’s’.

### **108 Amendment of s 283A (Inspection of documents)**

- (1) Section 283A(1), after ‘a port authority’—

*insert—*

‘or port lessor’.

- (2) Section 283A(1), after ‘the port authority’—

*insert—*

‘or a relevant entity’.

### **109 Amendment of s 283B (Inspection of ships, vehicles, rolling stock and goods)**

- (1) Section 283B(1), after ‘port authority’—

*insert—*

‘or port lessor’.

- (2) Section 283B(2), after ‘port authority’s’—

*insert—*

‘or port lessor’s’.

### **110 Amendment of s 283C (Obstructing authorised officer)**

Section 283C(1), after ‘port authority’s’—

*insert—*

‘or port lessor’s’.

**111 Amendment of s 283G (Conduct causing public nuisance)**

Section 283G, after ‘port authority’s’—  
*insert—*  
‘or port lessor’s’.

**112 Amendment of s 283H (Interfering with port notices)**

Section 283H(1), after ‘port authority’s’—  
*insert—*  
‘, port lessor’s or port lessor’s delegate’s’.

**113 Insertion of new ch 8, pt 3C**

Chapter 8—  
*insert—*

**‘Part 3C Land management—Port of Brisbane**

**‘Division 1 Preliminary**

**‘283I Definitions for pt 3C**

‘In this part—

*balance port land* see section 283L.

*Brisbane core port land* see section 283K.

*Brisbane port LUP* means the plan, approved under this part, that regulates development on Brisbane core port land.

*Brisbane port railway land* means—

- (a) any part of Brisbane core port land that is leased for railway purposes; or

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- (b) any land completely or partly within Brisbane core port land, or adjoining Brisbane core port land, if the land is—
  - (i) rail corridor land; or
  - (ii) future railway land.

***community infrastructure designation*** means a designation of land for community infrastructure under the Planning Act, section 200.

***consultation period*** see section 283ZB(2)(f).

***contributions schedule*** see section 283S(1)(g).

***core matters***, for the Brisbane port LUP (including its preparation), means each of the following matters—

- (a) land use and development;
- (b) core port infrastructure;
- (c) valuable features.

***core port infrastructure*** means core port infrastructure stated in schedule 5B, part 2.

***draft plan*** see section 283ZA.

***first Brisbane port LUP*** means the first Brisbane port LUP as published under section 283Q(1).

***former land use plan*** means the land use plan under this Act for the Port of Brisbane in effect immediately before the completion day.

***high-water mark*** means the ordinary high-water mark at spring tides.

***land use and development***, for an area, includes each of the following—

- (a) the location of, and the relationships between, the land uses in the area;
- (b) the current effects of land use in the area;

- (c) the likely effects of any proposed development of Brisbane core port land;
- (d) the accessibility to, and within, Brisbane core port land.

***minor amendment (LUP)***, for the Brisbane port LUP, means—

- (a) an amendment correcting or changing any of the following—
  - (i) an explanatory matter about the plan, this Act or the Planning Act;
  - (ii) the format or presentation of the plan;
  - (iii) a spelling, typographical, grammatical or mapping error in the plan;
  - (iv) a factual matter incorrectly stated in the plan;
  - (v) a redundant or outdated term;
  - (vi) inconsistent numbering of provisions in the plan;
  - (vii) cross-references to provisions in the plan;
  - (viii) a matter in the Brisbane port LUP to make it consistent with a State planning regulatory provision, a regional plan or a State planning policy under the Planning Act; or
- (b) an amendment to include a statement in the plan that a State planning instrument, or a part of a State planning instrument, is appropriately reflected in the plan, if the planning Minister has advised the port operator that the planning Minister is satisfied the Brisbane port LUP reflects the instrument; or
- (c) an amendment the planning Minister and transport Minister agree is made to reflect—
  - (i) a development approval; or
  - (ii) a community infrastructure designation; or

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(iii) transport infrastructure or planned transport infrastructure.

***plan commencement day*** see section 283R.

***planned transport infrastructure*** means future transport infrastructure that is—

- (a) planned under the Brisbane port LUP; or
- (b) authorised under a development approval or mentioned in a community infrastructure designation; or
- (c) planned under a State planning instrument; or
- (d) any of the following identified in a guideline made under the *Transport Planning and Coordination Act 1994*, section 8E—
  - (i) a future busway station;
  - (ii) a future railway passenger station for the network known as Citytrain;
  - (iii) a future passenger transport interchange facility;
  - (iv) a future route for public transport; or
- (e) future railway land; or
- (f) a road or land that the chief executive has notified a local government in writing is intended to become a State-controlled road.

***planning chief executive*** means the chief executive of the department in which the Planning Act is administered.

***planning Minister*** means the Minister administering the Planning Act.

***port prohibited development*** means—

- (a) port prohibited development stated in schedule 5B, part 3; or
- (b) development that is stated in the Brisbane port LUP to be port prohibited development for the plan or a precinct.



***port related development*** means port related development stated in schedule 5B, part 4.

***precinct*** means an area marked on a map in the Brisbane port LUP and for which a table of assessment is identified in the plan.

***premises*** see the Planning Act, schedule 3.

***priority infrastructure interface plan***, for the Brisbane port LUP, means a document prepared by or for the port operator describing how development that is consistent with the Brisbane port LUP is intended to coordinate with the priority infrastructure plan of the Brisbane City Council for the types of local government infrastructure relevant to Brisbane core port land.

***priority infrastructure plan***, of a local government, means the local government's priority infrastructure plan under the Planning Act.

***properly made submission*** means a submission that—

- (a) is in writing and, unless the submission is made electronically, is signed by each person who made the submission; and
- (b) is given to all of the following—
  - (i) the port operator;
  - (ii) the planning Minister;
  - (iii) the transport Minister; and
- (c) is received during the consultation period; and
- (d) states the name and residential or business address of each person who made the submission; and
- (e) states the grounds of the submission and the facts and circumstances relied on in support of the grounds.

***registered interest*** means an interest registered in—

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- (a) the freehold land register; or
- (b) the leasehold land register under the Land Act.

**service provider** means an entity that is a service provider under the *Water Supply (Safety and Reliability) Act 2008*.

**State interest** see the Planning Act, schedule 3.

**State planning instrument** means a State planning instrument under the Planning Act.

**statement of proposal** see section 283Y(1).

**strategic plan**, for the Brisbane port LUP, see section 283S(2).

**table of assessment**, for a precinct, means a statement in the Brisbane port LUP for the precinct as to whether particular development in the precinct is any of the following—

- (a) exempt development, self-assessable development, development requiring compliance assessment or assessable development for the Planning Act under the Brisbane port LUP;
- (b) port prohibited development;
- (c) development that is consistent or inconsistent with the Brisbane port LUP.

**transport Minister** means the Minister administering this Act.

**transport reasons** means all of the following—

- (a) the objectives of this Act;
- (b) the elements of the strategic plan for the Brisbane port LUP relating to—
  - (i) planning for core port infrastructure, port related development and other transport infrastructure; and
  - (ii) maintaining buffer land for the infrastructure or development;

- (c) the safety and operational integrity of core port infrastructure and planned core port infrastructure identified under the Brisbane port LUP;
- (d) the safety and operational integrity of transport infrastructure and planned transport infrastructure not mentioned in paragraph (c);
- (e) any matter for which the chief executive of the department in which this Act or any of the following Acts is administered has jurisdiction as a referral agency under the Planning Act—
  - (i) the *Transport Planning and Coordination Act 1994*;
  - (ii) the *Transport Operations (Marine Safety) Act 1994*.

*valuable features* see the Planning Act, section 89(2).

**‘283J Treasurer may declare land to be Brisbane core port land or balance port land**

‘The Treasurer may by gazette notice—

- (a) declare land to be Brisbane core port land for the first Brisbane port LUP; and
- (b) on or before the day Brisbane core port land is declared under paragraph (a), declare land to be balance port land.

**‘283K What is *Brisbane core port land***

‘*Brisbane core port land* means—

- (a) for the first Brisbane port LUP—land the Treasurer declares to be Brisbane core port land under section 283J; or
- (b) after the day the first Brisbane port LUP has effect—

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- (i) land identified in the Brisbane port LUP as Brisbane core port land; or
- (ii) land that is subject to a table of assessment for a precinct, if the port lessee or port lessor has a registered interest in the land.

### **‘283L What is *balance port land***

*‘Balance port land* means land the Treasurer declares to be balance port land under section 283J.

### **‘283M Application of Planning Act**

- ‘(1) Subject to this part, the Planning Act applies for development on Brisbane core port land and balance port land.
- ‘(2) If there is an inconsistency between this part and the Planning Act, this part prevails to the extent of the inconsistency.
- ‘(3) If development is stated to be development of a particular type for the Planning Act under the Brisbane port LUP, the development is taken to be development of that type under that Act.
- ‘(4) Other than as provided for under this part, a development application for development that is assessable development for the Planning Act under the Brisbane port LUP is not subject to a referral agency jurisdiction under that Act.

*Note—*

See sections 283ZQ to 283ZY for referral agencies, and their jurisdictions relating to development applications for development under the Brisbane port LUP.

### **‘283N Brisbane core port land not subject to local planning instrument**

‘Brisbane core port land is not subject to a local planning instrument under the Planning Act.

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## **‘Division 2                    Particular provisions about balance port land and planning schemes**

### **‘283O Balance port land is not strategic port land**

‘If strategic port land is declared to be balance port land under section 283L, it stops being strategic port land.

### **‘283P Amendment of planning schemes**

- ‘(1) The Treasurer may, by gazette notice on or before the day land is declared to be Brisbane core port land under section 283J, amend the planning schemes of the following local governments for the purpose of dealing with balance port land under the planning schemes—
- (a) Brisbane City Council;
  - (b) Moreton Bay Regional Council.
- ‘(2) The gazette notice may provide for an amendment of a planning scheme to deal with balance port land that—
- (a) is not a part of the area of a local government; and
  - (b) adjoins the area of a local government.
- ‘(3) The local government is the assessment manager for a development application for development on the balance port land dealt with by the gazette notice.
- ‘(4) A planning scheme as amended under this section—
- (a) applies to the balance port land dealt with under the planning scheme; and
  - (b) may be amended under the Planning Act.

## **‘Division 3                    Plan for land use on Brisbane core port land**

### **‘Subdivision 1            First Brisbane port LUP**

#### **‘283Q Notice of first plan**

- ‘(1) The Treasurer must, on or as soon as practicable after the completion day, publish notice in the gazette of the plan for land use (the *first Brisbane port LUP*) for Brisbane core port land.
- ‘(2) Section 283S, other than section 283S(1)(h), applies to the first Brisbane port LUP.
- ‘(3) The Treasurer may act under subsection (1) only if satisfied—
  - (a) the first Brisbane port LUP satisfactorily deals with the core matters relevant to the plan; and
  - (b) State interests will not be adversely affected by the plan.
- ‘(4) The Treasurer must give a copy of the gazette notice and the first Brisbane port LUP to—
  - (a) the port operator; and
  - (b) Brisbane City Council.
- ‘(5) On and from the day the notice mentioned in subsection (1) is published in the gazette—
  - (a) the former land use plan is of no force or effect for Brisbane core port land; and
  - (b) strategic port land that has been declared to be Brisbane core port land stops being strategic port land.

#### **‘283R Status of first plan**

‘The first Brisbane port LUP—

- (a) has effect as the Brisbane port LUP for Brisbane core port land on and from the day notice of the plan is published in the gazette (the *plan commencement day*); and
- (b) is taken to be the Brisbane port LUP approved under this division until it is replaced or amended under the division.

## **‘Subdivision 2      Content and review of Brisbane port LUP**

### **‘283S Content of plan—mandatory requirements**

- ‘(1) The Brisbane port LUP must, for Brisbane core port land—
  - (a) include a part outlining, by way of concept plans and words, for a period of at least 20 years after the plan commencement day—
    - (i) planning for core port infrastructure and proposed port related development for the land; and
    - (ii) anticipated infrastructure requirements relating to development mentioned in subparagraph (i); and
  - (b) include a part identifying the strategic outcomes for the land and stating measures that facilitate achieving the strategic outcomes; and
  - (c) state details of the land and the current and intended uses of the land; and
  - (d) coordinate and integrate the core matters relevant to the plan; and
  - (e) integrate matters relevant to the land under the regional plan and State planning policies under the Planning Act; and
  - (f) outline existing land uses for land (*adjacent land*) adjoining or neighbouring Brisbane core port land and

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how the adjacent land is dealt with by the planning scheme for the adjacent land; and

- (g) include a schedule of charges (a *contributions schedule*) under which a contribution may be required by a condition imposed on a development approval under section 283ZZ; and
- (h) include a priority infrastructure interface plan for the land.

*Note—*

Subsection (1)(h) does not apply to the first Brisbane port LUP. See section 283Q(2).

- ‘(2) The parts of the Brisbane port LUP mentioned in subsection (1)(a) and (b) are called the *strategic plan*.
- ‘(3) The other parts of the Brisbane port LUP must be consistent with the strategic plan.
- ‘(4) For subsection (1)(b), measures facilitating achievement of the strategic outcomes include the identification of—
  - (a) exempt development, self-assessable development or development requiring compliance assessment for the Planning Act under the Brisbane port LUP; or
  - (b) assessable development for the Planning Act under the Brisbane port LUP requiring code or impact assessment; or
  - (c) port prohibited development.
- ‘(5) Without limiting subsection (1), the Brisbane port LUP may—
  - (a) state that particular development is inconsistent with the plan, or a part of the plan relating to a particular precinct, for transport reasons; or
  - (b) state that any part of Brisbane core port land is intended to be maintained as buffer land; or
  - (c) include details of any land proposed to become part of Brisbane core port land.



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**‘283T Content of plan—matters about development**

- ‘(1) The Brisbane port LUP may state that development on Brisbane core port land, or in a precinct, is port prohibited development.
- ‘(2) Also, the Brisbane port LUP may state—
  - (a) that development is consistent or inconsistent with the plan or a part of the plan relating to a particular precinct; and
  - (b) the reasons that development is inconsistent with the plan or the part.
- ‘(3) The Brisbane port LUP may state that development that is a material change of use of premises for core port infrastructure and is consistent with the plan for a precinct is, within that precinct, exempt development or self-assessable development for the Planning Act under the plan.
- ‘(4) The Brisbane port LUP may state that development that is a material change of use of premises for port related development and is consistent with the plan for a precinct is, within that precinct, exempt development, self-assessable development, development requiring compliance assessment, or assessable development requiring code assessment for the Planning Act under the plan.
- ‘(5) However, the Brisbane port LUP must not state that—
  - (a) port prohibited development stated in schedule 5B is exempt development, self-assessable development, development requiring compliance assessment or assessable development for the Planning Act; or
  - (b) development prescribed under the Planning Act, section 232(2) is self-assessable development, development requiring compliance assessment or assessable development for the Planning Act; or
  - (c) any of the following development is assessable development or port prohibited development for the Planning Act under the plan—

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- (i) development that is a material change of use of premises for core port infrastructure and is consistent with the plan;
  - (ii) self-assessable development prescribed under the Planning Act, section 232(1); or
  - (d) development that is a material change of use of premises for port related development, and is consistent with the plan, is assessable development requiring impact assessment or port prohibited development under the plan.
- ‘(6) Development prescribed under the Planning Act, section 232(2) is, for that Act, exempt from assessment against the Brisbane port LUP.
- ‘(7) Self-assessable development prescribed under the Planning Act, section 232(1) is self-assessable development for the Brisbane port LUP.

### **‘283U Requirement to review plan**

- ‘(1) The port operator must complete a review of the Brisbane port LUP at least every 10 years after the plan commencement day.
- ‘(2) The review must include an assessment of the achievement of the strategic outcomes identified in the plan.

### **‘283V Action port operator must take after review**

‘After reviewing the Brisbane port LUP, the port operator must—

- (a) propose to prepare a new Brisbane port LUP; or
- (b) propose to amend the Brisbane port LUP; or
- (c) if the port operator is satisfied the Brisbane port LUP is suitable to continue without amendment—decide to take no further action.

---

**‘283W Report about review if decision is to take no action**

‘If the port operator decides to take no further action under section 283V(c), the port operator must—

- (a) prepare a report stating the reasons the port operator decided to take no further action; and
- (b) give a copy of the report to the planning Minister and the transport Minister.

**‘283X When plan must include priority infrastructure interface plan**

‘The port operator must ensure the Brisbane port LUP includes a priority infrastructure interface plan for Brisbane core port land by the earlier of the following—

- (a) the day that is 3 years after the day the Brisbane City Council’s first priority infrastructure plan is included in its planning scheme;
- (b) the day the port operator first prepares a new Brisbane port LUP under this division after the Brisbane City Council’s first priority infrastructure plan is included in its planning scheme.

**‘Subdivision 3 Preparation and amendment of Brisbane port LUP by port operator**

**‘283Y Statement of proposal for preparation or amendment of Brisbane port LUP**

- ‘(1) The port operator must prepare a statement (*statement of proposal*) about—
  - (a) the preparation of a new Brisbane port LUP; or
  - (b) an amendment of the Brisbane port LUP.
- ‘(2) However, subsection (1)(b) does not apply to an amendment of the Brisbane port LUP if the amendment—

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- (a) is to remove land from the Brisbane port LUP; or
  - (b) is a minor amendment (LUP).
- ‘(3) The statement of proposal must—
- (a) identify matters the port operator anticipates the Brisbane port LUP will address; and
  - (b) state how the port operator intends to address each relevant aspect of the core matters in the plan.
- ‘(4) The port operator must give a copy of the statement of proposal to—
- (a) the Brisbane City Council; and
  - (b) the planning Minister; and
  - (c) the transport Minister.

**‘283Z Brisbane port LUP may be amended to identify additional land**

- ‘(1) The Brisbane port LUP may be amended to identify additional land as Brisbane core port land if the planning Minister and transport Minister are satisfied the additional land—
- (a) is land in which the port lessee or port lessor has a registered interest; and
  - (b) is or may be used—
    - (i) for core port infrastructure; or
    - (ii) for port related development; or
    - (iii) as buffer land.

*Note—*

Land identified in the Brisbane port LUP is Brisbane core port land. See section 283K.

- ‘(2) Subsection (1) does not limit how the Brisbane port LUP may be amended.

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**‘283ZA Draft plan for preparation or amendment of Brisbane port LUP**

‘After complying with section 283Y, and section 283ZB to the extent the section relates to a statement of proposal, the port operator must—

- (a) take appropriate account of issues raised as a result of consultation under section 283ZB in relation to the statement of proposal; and
- (b) prepare a draft (*draft plan*) of—
  - (i) if the statement of proposal is for the preparation of a new Brisbane port LUP—the plan; or
  - (ii) if the statement of proposal is for an amendment of the Brisbane port LUP—the amendment of the plan; and
- (c) give a copy of the draft plan to—
  - (i) the Brisbane City Council; and
  - (ii) the planning Minister; and
  - (iii) the transport Minister.

**‘283ZB Consultation on statement of proposal or draft plan**

- ‘(1) This section applies if the port operator prepares a statement of proposal under section 283Y or a draft plan under section 283ZA.
- ‘(2) The port operator must publish, at least once in a newspaper circulating generally in the area to which the statement of proposal or the draft plan relates, a notice stating the following—
  - (a) the name of the port operator;
  - (b) that the statement of proposal or draft plan relates to Brisbane core port land;
  - (c) that the port operator has prepared a statement of proposal, or a draft plan, and that it is available for

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inspection and purchase at the office of the port operator in Brisbane;

- (d) a contact telephone number for information about the statement of proposal or draft plan;
  - (e) that any person may make a properly made submission about the statement of proposal or draft plan;
  - (f) the period (the *consultation period*) during which a submission mentioned in paragraph (e) may be made;
  - (g) the requirements for a properly made submission.
- ‘(3) The consultation period must be—
- (a) for a statement of proposal—at least 20 business days after the notice is first published under subsection (2); or
  - (b) for a draft plan—at least 40 business days after the notice is first published under subsection (2).

### **‘283ZC Consideration of draft plan and submissions**

- ‘(1) On receiving a copy of a draft plan, the planning Minister and the transport Minister must consider whether or not any State interests would be adversely affected by the draft plan.
- ‘(2) Also, before approving a draft plan or recommending approval of a draft plan to the Governor in Council under this subdivision, the planning Minister and the transport Minister must consider all properly made submissions.

### **‘283ZD Directions for amendment of draft plan**

- ‘(1) The planning Minister and the transport Minister may return a draft plan prepared by the port operator for amendment in the way directed by the planning Minister and the transport Minister.
- ‘(2) A copy of the direction must be published in the gazette within 21 days after it is given.

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### **‘283ZE Approval of plans**

- ‘(1) The planning Minister and the transport Minister may jointly approve a draft plan if satisfied that—
- (a) the draft plan, or Brisbane port LUP as amended by the draft plan, satisfactorily deals with the core matters relevant to the plan and the mandatory requirements of the plan under section 283S; and
  - (b) the port operator has taken appropriate account of issues raised in properly made submissions; and
  - (c) the Brisbane City Council does not have a substantial objection to the draft plan; and
  - (d) State interests will not be adversely affected by the draft plan.
- ‘(2) If the planning Minister and the transport Minister are satisfied about subsection (1)(a), (b) and (d) but are satisfied that the Brisbane City Council has a substantial objection to the draft plan, the draft plan may only be approved by the Governor in Council.
- ‘(3) Approval of the Brisbane port LUP, or an amendment of the plan, must be notified in the gazette within 21 days after it is given.
- ‘(4) The approval or amendment takes effect when it is notified in the gazette.
- ‘(5) As soon as practicable after the approval or amendment is notified in the gazette, the planning chief executive must give the port operator notice of the gazettal.

### **‘283ZF Port operator to publish approved plan**

‘The port operator must ensure the Brisbane port LUP as approved under this division is published on its website.

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### **‘283ZG Recovery of Ministers’ costs**

‘The reasonable costs and expenses incurred by the planning Minister and the transport Minister in acting under this subdivision in relation to a draft plan are a debt payable by the port operator to the State.

## **‘Subdivision 4      Miscellaneous**

### **‘283ZH Notification about Brisbane port LUP**

‘If the Brisbane port LUP is approved or amended under subdivision 3, the planning chief executive must give written notice of the details of the plan or amendment to the Brisbane City Council.

### **‘283ZI Recording matters about Brisbane port LUP**

- ‘(1) The Brisbane City Council must ensure there is a record—
  - (a) on each relevant map in its planning scheme identifying the land to which the Brisbane port LUP applies; and
  - (b) in the planning scheme stating that interested persons may obtain details of the Brisbane port LUP from the port operator.
- ‘(2) For the guideline made under the Planning Act, section 117(1), the making of the record is an administrative amendment to the planning scheme.

### **‘283ZJ Ministerial direction to port operator**

- ‘(1) This section applies if the planning Minister and the transport Minister are satisfied—
  - (a) a minor amendment (LUP) is required for the Brisbane port LUP; or



- 
- (b) the port operator has not complied with a requirement under subdivision 2 or 3 to make or amend the Brisbane port LUP.
  - ‘(2) The planning Minister and the transport Minister jointly may, by written notice, direct the port operator—
    - (a) to make the minor amendment (LUP) within a stated reasonable period; or
    - (b) comply with the requirement under subdivision 2 or 3 within a stated reasonable period.
  - ‘(3) The notice must state the reasons for deciding to give the direction.
  - ‘(4) Before giving a direction to the port operator under subsection (2), the Ministers must consult with the port operator.
  - ‘(5) The port operator must comply with the direction.

## **‘Division 4                      Effect of land becoming or ceasing to be Brisbane core port land**

### **‘283ZK Effect of land becoming Brisbane core port land**

- ‘(1) This section applies if land becomes Brisbane core port land (*new port land*) at any time after the day the first Brisbane port LUP has effect.
- ‘(2) The port operator must give written notice of the particulars of the new port land, including the date the land became Brisbane core port land, to—
  - (a) the Brisbane City Council; and
  - (b) the planning chief executive.
- ‘(3) An entity given a notice under subsection (2) must ensure there is a record, on each relevant map in the council’s planning scheme held by the entity, indicating that the land is Brisbane core port land.

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- ‘(4) If the new port land is land that is subject to a table of assessment for a precinct, the Brisbane port LUP applies to the land on and from the day it becomes Brisbane core port land.
- ‘(5) If subsection (4) does not apply to the new port land, the new port land continues to be subject to the planning scheme for the land until the Brisbane port LUP is amended to identify the land as Brisbane core port land.
- ‘(6) On and from the day land becomes Brisbane core port land—
  - (a) the Brisbane City Council ceases to be the assessment manager in relation to the land; and
  - (b) the planning chief executive is the assessment manager in relation to the land.

### **‘283ZL Effect of land ceasing to be Brisbane core port land**

- ‘(1) This section applies if land (*former port land*) stops being Brisbane core port land.
- ‘(2) The port operator must give written notice of the particulars of the former port land, including the date it stopped being Brisbane core port land, to—
  - (a) the Brisbane City Council; and
  - (b) the planning chief executive.
- ‘(3) An entity given a notice under subsection (2) must ensure there is a record, on each relevant map in the council’s planning scheme held by the entity, indicating that the land is not Brisbane core port land.
- ‘(4) Subsections (5) to (7) apply if the former port land is, when it stops being Brisbane core port land, unzoned land.
- ‘(5) While the former port land is unzoned land—
  - (a) the Brisbane port LUP continues to apply to the land and the land is taken to be a part of the Brisbane City Council’s planning scheme; and

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- (b) the Brisbane City Council is the assessment manager for a development application for development on the land that is assessable development for the Planning Act under the Brisbane port LUP even if the land is not part of, but adjoins, the council's local government area.
- '(6) When the former port land stops being unzoned land, the Brisbane port LUP does not apply to the land.
- '(7) To the extent subsection (5) is inconsistent with the standard planning scheme provisions under the Planning Act, subsection (5) prevails.
- '(8) Subsection (6) applies to former port land even if the Brisbane port LUP has not been amended to show the former port land is not included in the plan.
- '(9) In this section—  
*unzoned land* means land that is not zoned for a purpose or use under a planning scheme.

## **'Division 5            Particular matters about development on Brisbane core port land**

### **'Subdivision 1      Preliminary**

#### **'283ZM Reconfiguring a lot**

- '(1) Subsection (2) applies to development that is reconfiguring a lot by a lease only if the reconfiguring is for 1 of the following stated permitted purposes under the lease—
- (a) core port infrastructure;
  - (b) transport infrastructure;
  - (c) core port infrastructure and transport infrastructure.

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- ‘(2) Despite the Planning Act, the development is exempt development under that Act.
- ‘(3) Subsections (4) to (6) apply to development that is reconfiguring a lot, other than for a stated purpose mentioned in subsection (1).
- ‘(4) The development is assessable development requiring code assessment under the Planning Act and there are no referral agencies for the development.
- ‘(5) If a development application is only for the reconfiguring of a lot on Brisbane core port land, the application must be decided within 20 business days after the application is made.
- ‘(6) A condition can not be imposed on a development approval for reconfiguring a lot on Brisbane core port land if the condition requires a monetary payment to anyone.

### **‘283ZN Port prohibited development**

- ‘(1) A development application or request for compliance assessment can not be made for development on Brisbane core port land if the development is port prohibited development.
- ‘(2) If a development application or request for compliance assessment is made and any part of the development applied for is port prohibited development, the application or request is taken not to have been made and IDAS does not apply to it.
- ‘(3) In this section—  
*request for compliance assessment* means a request for compliance assessment under the Planning Act, section 401.

### **‘283ZO Code assessment under Brisbane port LUP**

- ‘(1) This section applies to any part of a development application requiring code assessment under the Brisbane port LUP for port related development.

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- ‘(2) Subject to any requirements of a concurrence agency for the part of the application, the assessment manager must approve the part of the application if the port related development—
- (a) is consistent with the Brisbane port LUP; and
  - (b) complies with all applicable codes for the development.

## **‘Subdivision 2 Provisions about assessment manager and referral agencies**

### **‘283ZP Planning chief executive is assessment manager for particular development**

- ‘(1) The planning chief executive is the assessment manager for the following development—
- (a) material change of use of premises completely or partly on Brisbane core port land if the development is assessable development for the Planning Act under the Brisbane port LUP;
  - (b) reconfiguring a lot completely or partly on Brisbane core port land if the development is assessable development for the Planning Act under this part;
  - (c) operational work completely on Brisbane core port land if the development is assessable development for the Planning Act under the Brisbane port LUP.
- ‘(2) If the planning chief executive is the assessment manager for development mentioned in subsection (1), the planning chief executive must assess the development against the Brisbane port LUP.
- ‘(3) Also, in assessing the development, the planning chief executive must have regard to each State planning instrument applicable to the development.

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**‘283ZQ Referral agency, and jurisdiction, for particular development—Brisbane City Council**

‘If the planning chief executive is the assessment manager for a development application for material change of use made assessable for the Planning Act under the Brisbane port LUP—

- (a) the Brisbane City Council is an advice agency for the application; and
- (b) the council’s jurisdiction as an advice agency is in relation to any material impacts of the proposed development—
  - (i) identified by the council; and
  - (ii) on land, other than Brisbane core port land, in its local government area.

**‘283ZR Referral agency and jurisdiction for development inconsistent with Brisbane port LUP—Transport chief executive**

- ‘(1) The transport Minister is a concurrence agency for a development application for development on Brisbane core port land involving development that is inconsistent with the Brisbane port LUP for transport reasons.
- ‘(2) The transport Minister’s jurisdiction as a concurrence agency is the transport reasons and the application must be assessed against the transport reasons.
- ‘(3) The Planning Act, chapter 8, part 1, division 8 does not limit the jurisdiction of the transport Minister as a concurrence agency.

**‘283ZS Referral agency and jurisdiction for particular building work—chief executive**

- ‘(1) This section applies to a development application for building work on Brisbane core port land if the premises the subject of

the application is completely or partly within, or within 25m of, Brisbane port railway land.

- ‘(2) The chief executive is a concurrence agency for the application.
- ‘(3) The chief executive’s jurisdiction as a concurrence agency is the purpose mentioned in section 258(2).
- ‘(4) This part does not limit or otherwise affect any referral agency jurisdiction for building work under the Planning Act.
- ‘(5) In this section—  
*building work* see the Planning Act, section 10.

**‘283ZT Referral agency, and jurisdiction, for material change of use and operational work under Brisbane port LUP—chief executive**

- ‘(1) This section applies to a development application for material change of use or operational work for development made assessable development for the Planning Act under the Brisbane port LUP.
- ‘(2) The chief executive is a concurrence agency for the application if the development is—
  - (a) a material change of use of premises on—
    - (i) land contiguous to a State-controlled road; or
    - (ii) land not contiguous to a State-controlled road and for which the chief executive would be a concurrence agency under the Planning Act, for the State-controlled road, if the development were assessable under a planning scheme; or

*Editor’s note—*

For development mentioned in subparagraph (ii), see the *Sustainable Planning Regulation 2009*, schedule 7, table 3, item 2 and schedule 11.

- (iii) land completely or partly within a public transport corridor or a future public transport corridor; or

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- (iv) land not completely or partly within a public transport corridor or a future public transport corridor and for which the chief executive would be a concurrence agency under the Planning Act, for public passenger transport, if the development were assessable under a planning scheme; or

*Editor's note—*

For development mentioned in subparagraph (iv), see the *Sustainable Planning Regulation 2009*, schedule 7, table 3, item 14 and schedule 12.

- (v) land completely or partly within Brisbane port railway land; or
- (vi) land not completely or partly within Brisbane port railway land and for which the chief executive would be a concurrence agency under the Planning Act, for the Brisbane port railway land, if the development were assessable under a planning scheme; or

*Editor's note—*

For development mentioned in subparagraph (vi), see the *Sustainable Planning Regulation 2009*, schedule 7, table 3, item 15 and schedule 13.

- (b) operational work that—
  - (i) is associated with access to a State-controlled road; or
  - (ii) is for filling or excavation on land contiguous to a State-controlled road; or
  - (iii) involves the redirection or intensification of site stormwater from land contiguous to a State-controlled road through a pipe with a cross-sectional area greater than 625cm<sup>2</sup> that directs stormwater to a State-controlled road; or
  - (iv) is completely or partly within a public transport corridor or a future public transport corridor; or



(v) is completely or partly on, or within 25m of, Brisbane port railway land and the work involves extracting, excavating or filling more than 50m<sup>3</sup>.

‘(3) The chief executive’s jurisdiction as a concurrence agency is—

(a) for a material change of use mentioned in subsection (2)(a)(i) or (ii) and operational work mentioned in subsection (2)(b)(i), (ii) or (iii)—the purpose mentioned in section 49A(2); and

(b) for a material change of use mentioned in subsection (2)(a)(iii) or (iv) and operational work mentioned in subsection (2)(b)(iv)—land use and transport coordination under the *Transport Planning and Coordination Act 1994*; and

(c) for a material change of use mentioned in subsection (2)(a)(v) or (vi) and operational work mentioned in subsection (2)(b)(v)—the purpose mentioned in section 258(2).

‘(4) In this section—

***future public transport corridor*** means a future public transport corridor under the Planning Act.

***land contiguous to a State-controlled road*** means land, the subject of a development application, if part of the land—

(a) is within 100m of the State-controlled road; or

(b) is part of a future State-controlled road.

***public transport corridor*** means a public transport corridor under the Planning Act.

**‘283ZU Referral agency, and jurisdiction, for material change of use under Brisbane port LUP—administering authority**

‘(1) This section applies to a development application for a material change of use for development made assessable

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development for the Planning Act under the Brisbane port LUP.

‘(2) The administering authority is a concurrence agency for the application if the development is a material change of use of premises—

(a) for an environmentally relevant activity made assessable development under the Planning Act; or

(b) for a mobile and temporary environmentally relevant activity made assessable development under the Planning Act; or

(c) if—

(i) all or part of the premises is on the environmental management register or contaminated land register under the Environmental Protection Act; and

(ii) the administering authority would be a concurrence agency under the Planning Act for contaminated land management.

‘(3) The administering authority’s jurisdiction as a concurrence agency is—

(a) for a material change of use mentioned in subsection (2)(a) or (b)—the purposes of the Environmental Protection Act; and

(b) for a material change of use mentioned in subsection (2)(c)—protection of the environment by the management of contaminated land under the Environmental Protection Act.

‘(4) In this section—

***administering authority*** see the Environmental Protection Act, schedule 4.

***environmentally relevant activity*** see the Environmental Protection Act, section 18.

***Environmental Protection Act*** means the *Environmental Protection Act 1994*.

*mobile and temporary environmentally relevant activity* see the Environmental Protection Act, schedule 4.

### **‘283ZV Assessment and referrals for heritage places**

- ‘(1) Development on a local heritage place that is on Brisbane core port land is not assessable development under the Planning Act even if the development is prescribed as assessable development under section 232(1) of that Act.
- ‘(2) Subsection (1) applies to development on the local heritage place whether or not it became a local heritage place before or after the completion day.
- ‘(3) This part does not limit or otherwise affect assessment, or any referral agency jurisdiction, under the Planning Act for development on a Queensland heritage place.
- ‘(4) In this section—

*local heritage place* means a local heritage place under the *Queensland Heritage Act 1992*.

*Queensland heritage place* means a registered place under the *Queensland Heritage Act 1992*.

### **‘283ZW Referral agency, and jurisdiction, for material change of use and operational work under Brisbane port LUP—coastal protection**

- ‘(1) This section applies to a development application for a material change of use or operational work made assessable development for the Planning Act under the Brisbane port LUP if the application is also for—
  - (a) tidal works; or
  - (b) operational work, carried out completely or partly within a coastal management district, that is made assessable development under the Planning Act.

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- ‘(2) The chief executive administering the *Coastal Protection and Management Act 1995* is a concurrence agency for the application.
- ‘(3) The chief executive’s jurisdiction as a concurrence agency is coastal management under the *Coastal Protection and Management Act 1995*, other than amenity and aesthetic significance or value.
- ‘(4) In this section—  
*coastal management district* means a coastal management district under the *Coastal Protection and Management Act 1995*, other than an area declared as a coastal management district under section 54(2) of that Act.  
*tidal works* see the *Coastal Protection and Management Act 1995*, schedule.

**‘283ZX Referral agency, and jurisdiction, for material change of use and operational work under Brisbane port LUP—other referral agencies**

- ‘(1) This section applies to a development application for material change of use or operational work for development made assessable development for the Planning Act under the Brisbane port LUP.
- ‘(2) If the material change of use of premises is for a major hazard facility or possible major hazard facility, the chief executive administering the *Dangerous Goods Safety Management Act 2001* is a concurrence agency for the application.
- ‘(3) If the development application includes operational work for which the chief executive administering the *Water Act 2000* is a concurrence agency under the Planning Act, that chief executive is a concurrence agency for the application.
- ‘(4) If the development application includes operational work for which the chief executive administering the *Water Supply (Safety and Reliability) Act 2008* is a concurrence agency under the Planning Act, that chief executive is a concurrence agency for the application.

- ‘(5) If the development application includes a material change of use of premises or operational work for which the chief executive administering the *Fisheries Act 1994* is a concurrence agency under the Planning Act, that chief executive is a concurrence agency for the application.
- ‘(6) The jurisdiction as a concurrence agency for a chief executive mentioned in subsection (2), (3), (4) or (5) is the concurrence agency jurisdiction the chief executive has under the Planning Act for a development application of the type mentioned in the subsection.
- ‘(7) In this section—  
*major hazard facility* see the *Dangerous Goods Safety Management Act 2001*, section 31(1).

**‘283ZY Development on land below high-water mark and within the port limits**

- ‘(1) The chief executive administering the *Transport Operations (Marine Safety) Act 1994* is a concurrence agency for a development application for development below high-water mark and within the port limits.
- ‘(2) The jurisdiction as a concurrence agency is the purposes of the *Transport Operations (Marine Safety) Act 1994*.
- ‘(3) The port operator is an advice agency for a development application—  
(a) for development below high-water mark and within the port limits; and  
(b) for which the applicant is not the port operator.
- ‘(4) The port operator’s jurisdiction as an advice agency is the safety and operational integrity of the port.
- ‘(5) In this section—  
*port limits* means the Port of Brisbane’s port limits under this Act.

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### **‘283ZZ Restriction on conditions of development approvals**

‘(1) The assessment manager for a development application for development on Brisbane core port land may, under the Planning Act, impose a condition on the development approval for the application requiring a contribution only in relation to the following infrastructure provided by the Brisbane City Council or a service provider—

- (a) drainage;
- (b) public transport;
- (c) roads;
- (d) sewerage and water supply headworks.

‘(2) In this section—

*contribution*, for a condition of a development approval, means an amount payable under the condition to the Brisbane City Council or a service provider—

- (a) for infrastructure provided by the Brisbane City Council or service provider; and
- (b) worked out under the contributions schedule on the basis of the relevance of the infrastructure to the actual proposed development to which the approval relates.

*Note—*

This section does not effect the conditions that may be imposed by a referral agency.

### **‘Subdivision 3 Application of particular provisions of Planning Act**

#### **‘283ZZA Particular provisions of Planning Act do not apply in relation to Brisbane core port land**

‘(1) The Planning Act, section 714 does not apply in relation to Brisbane core port land.

*Editor's note—*

Planning Act, section 714 (Local government may take or purchase land).

- ‘(2) A person is not entitled to claim compensation under the Planning Act, chapter 9, part 3, or any other law in relation to a change to the Brisbane port LUP affecting the person’s interest in any Brisbane core port land.

**‘283ZZB Modified application of Planning Act, ch 9, pt 6, div 4**

- ‘(1) A person may apply to the planning chief executive for a planning and development certificate under the Planning Act, chapter 9, part 6, division 4, for premises on Brisbane core port land.
- ‘(2) The application must be accompanied by the fee prescribed under a regulation.
- ‘(3) For subsection (1), the Planning Act, sections 738 to 742 apply—
- (a) as if a reference in the sections to a local government were a reference to the planning chief executive; and
  - (b) as if the reference in section 738(a) to any planning scheme were a reference to the Brisbane port LUP; and
  - (c) as if the reference in section 738(a) to any infrastructure charges schedule or regulated infrastructure charges schedule were a reference to any contributions schedule under the Brisbane port LUP; and
  - (d) as if the reference in section 739(g) to ‘for the planning scheme area’ were omitted; and
  - (e) as if section 739(h) were omitted; and
  - (g) as if section 739(m) included a reference to a copy of an infrastructure agreement received under section 283ZZE of this Act; and
  - (f) as if section 739(n) provided that the planning and development certificate must be accompanied by any

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statement of proposal or draft plan for Brisbane core port land that is—

- (i) published under section 283ZB(2) of this Act; and
- (ii) not yet approved under section 283ZE of this Act.

### **‘283ZZC Restriction on designation for community infrastructure**

- ‘(1) Despite the Planning Act, chapter 5, only a Minister may, under that part, designate Brisbane core port land for community infrastructure.
- ‘(2) Development under a designation by a Minister under the Planning Act, chapter 5 is exempt development to the extent the development would, other than for this section, be self-assessable development, development requiring compliance assessment or assessable development for the Planning Act under the Brisbane port LUP.
- ‘(3) Subsection (2) does not limit the Planning Act, section 203.

*Editor’s note—*

Planning Act, section 203 (How IDAS applies to designated land)

- ‘(4) In this section—  
*community infrastructure* see the Planning Act, schedule 3.

### **‘283ZZD Restriction on application of master plan**

‘To the extent a master plan under the Planning Act for a master planned area identified by a local government under that Act relates to Brisbane core port land, the master plan is of no effect.



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## **‘Subdivision 4      Notice of development approval**

### **‘283ZZE Requirement to give notice of development approval and infrastructure agreement**

- ‘(1) If the planning chief executive gives a development approval for development on Brisbane core port land, the planning chief executive must, within 5 business days after giving the approval, give a copy of the approval to each of the following—
- (a) the Brisbane City Council;
  - (b) the port operator;
  - (c) the chief executive;
  - (d) each referral agency for the development application to which the approval relates.
- ‘(2) If an applicant for a development approval for development on Brisbane core port land enters into an infrastructure agreement under the Planning Act in relation to the development, the applicant must give a copy of the agreement to—
- (a) the Brisbane City Council; and
  - (b) if the planning chief executive is not a party to the agreement—the planning chief executive; and
  - (c) if the chief executive is not a party to the agreement—the chief executive.

## **‘Subdivision 5      Delegation**

### **‘283ZZF Delegation of particular functions of planning chief executive**

- ‘(1) The planning chief executive may delegate the planning chief executive’s relevant administrative functions to Brisbane City Council.

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- ‘(2) If the planning chief executive delegates any relevant administrative functions to Brisbane City Council, the planning chief executive must—
- (a) give written notice of the delegation to the port operator; and
  - (b) publish the notice on the website of the department in which the Planning Act is administered.
- ‘(3) In this section—
- relevant administrative functions* means the planning chief executive’s functions under the Planning Act for matters relating to the administration and enforcement, under that Act, of a development approval for development on Brisbane core port land.

## **‘Subdivision 6      Development approvals affected by change**

### **‘283ZZG Brisbane port LUP does not affect existing development approval**

- ‘(1) This section applies if—
- (a) a development approval is in effect for premises on Brisbane core port land; and
  - (b) after the approval is given, the Brisbane port LUP is replaced or amended.
- ‘(2) To the extent the development approval has not lapsed, the replacement or amended Brisbane port LUP does not stop or additionally regulate the development to which the approval relates, or otherwise affect the approval.

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**‘283ZZH Planning scheme can not affect existing development approval**

- ‘(1) This section applies if a development approval is in effect for premises on—
- (a) Brisbane core port land, and the land the subject of the approval stops being Brisbane core port land; or
  - (b) land that becomes balance port land.
- ‘(2) The carrying out of development or the use of premises under the approval can not be stopped or additionally regulated under any planning scheme that applies to the land—
- (a) when, or after, it stops being Brisbane core port land; or
  - (b) when, or after, it becomes balance port land.

**‘283ZZI Changing status of land—effect on development approvals**

- ‘(1) Subsection (2) applies if—
- (a) a development approval is in effect for premises on Brisbane core port land; and
  - (b) the land the subject of the approval stops being Brisbane core port land; and
  - (c) the approval was given by the Port of Brisbane Corporation or the planning chief executive.
- ‘(2) For the purposes of any matter relating to the administration or enforcement of the development approval under the Planning Act, the approval is taken to have been given by the Brisbane City Council.
- ‘(3) Subsection (4) applies if—
- (a) a development approval is in effect for premises on land that is not Brisbane core port land; and
  - (b) the land the subject of the approval becomes Brisbane core port land.

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- ‘(4) For the purposes of any matter relating to the administration or enforcement of the development approval under the Planning Act, the approval is taken to have been given by the planning chief executive.
- ‘(5) Subsection (6) applies if—
  - (a) a development approval is in effect for premises on balance port land; and
  - (b) the approval was given by the Port of Brisbane Corporation.
- ‘(6) For the purposes of any matter relating to the administration or enforcement of the development approval under the Planning Act, the approval is taken to have been given by—
  - (a) the Urban Land Development Authority under the *Urban Land Development Authority Act 2007* if the balance port land is in the Northshore Hamilton urban development area under that Act; or
  - (b) otherwise—the local government for the area that adjoins the balance port land or in which the balance port land is situated.

## **‘Subdivision 7      Dealing with development applications affected by change**

### **‘283ZZJ Particular development applications—Brisbane core port land**

- ‘(1) This section applies to a development application for—
  - (a) development on strategic port land that becomes Brisbane core port land if—
    - (i) the application was made but not decided under the Planning Act before day the land becomes Brisbane core port land; and

- 
- (ii) the assessment manager for the application is the Port of Brisbane Corporation; or
  - (b) development assessed against a planning scheme if the land the subject of the application becomes Brisbane core port land before the application is finally decided.
- ‘(2) On the relevant day for the development application—
- (a) the planning chief executive is taken to be the assessment manager for the application; and
  - (b) the IDAS process for the application stops.
- ‘(3) As soon as practicable after the relevant day for a development application to which subsection (1)(a) applies, the port operator must give the application to the planning chief executive.
- ‘(4) As soon as practicable after the relevant day for a development application to which subsection (1)(b) applies, the assessment manager for the application must give the application to the planning chief executive.
- ‘(5) The planning chief executive may, in writing, ask the port operator or assessment manager for any information or material about the application the planning chief executive reasonably requires to process and decide the application.
- ‘(6) The port operator or assessment manager must comply with a request under subsection (5) within 10 business days after receiving the request.
- ‘(7) On receiving the application, and any further information or material requested under subsection (5), the planning chief executive must consider the application and the further information or material.
- ‘(8) The IDAS process for the application starts again 20 business days after the later of the following—
- (a) the day the IDAS process stopped under subsection (2)(b);

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- (b) the day the planning chief executive is given the application under subsection (4).
- ‘(9) Subject to this part, the Planning Act applies for processing and deciding the application.
- ‘(10) Despite subsection (9), the planning chief executive must assess the application against the matters that would have applied for the assessment before the relevant day for the application.
- ‘(11) In this section—  
*relevant day*, for a development application for land, means the day the land becomes Brisbane core port land.

**‘283ZZK Particular development applications—balance port land or former Brisbane core port land**

- ‘(1) This section applies to a development application for—
  - (a) development on land that becomes balance port land if—
    - (i) the application was made but not decided under the Planning Act before the relevant day for the land; and
    - (ii) the assessment manager for the application is the Port of Brisbane Corporation; or
  - (b) development on land that stops being Brisbane core port land if the development is assessable development for the Planning Act under the Brisbane port LUP.
- ‘(2) On the relevant day for the land—
  - (a) the Urban Land Development Authority under the *Urban Land Development Authority Act 2007* is taken to be the assessment manager for the application if the land is in the Northshore Hamilton urban development area under that Act; or
  - (b) if the land is not land mentioned in paragraph (a)—the local government for the area that adjoins the land or in

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which the land is situated is taken to be the assessment manager for the application; and

- (c) the IDAS process for the application stops.
- ‘(3) As soon as practicable after the relevant day for the land, the former assessment manager for the application must give the application to the new assessment manager for the application.
- ‘(4) The new assessment manager may, in writing, ask the former assessment manager for any information or material about the application the new assessment manager reasonably requires to process and decide the application.
- ‘(5) The former assessment manager must comply with a request under subsection (4) within 10 business days after receiving the request.
- ‘(6) On receiving the application, and any further information or material requested under subsection (4), the new assessment manager must consider the application and the further information or material.
- ‘(7) The IDAS process for the application starts again 20 business days after the later of the following—
- (a) the day the IDAS process stopped under subsection (2)(c);
- (b) the day the new assessment manager is given the application under subsection (3).
- ‘(8) Subject to this part, the Planning Act applies for processing and deciding the application.
- ‘(9) Despite subsection (8), the new assessment manager must assess the application against the matters (including the former land use plan) that would have applied for the assessment before the relevant day for the land.
- ‘(10) In this section—
- former assessment manager* means—

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- (a) for a development application to which subsection (1)(a) applies—the Port of Brisbane Corporation; or
- (b) for a development application to which subsection (1)(b) applies—the planning chief executive.

*new assessment manager*, for a development application, means the entity that under subsection (2) is taken to be the assessment manager for the application.

*relevant day* means—

- (a) for land that becomes balance port land—the day the land was declared to be balance port land under section 283J; or
- (b) otherwise—the day the land stops being Brisbane core port land.

## ‘Division 6 Dealings with Brisbane port land

### ‘283ZZL Definitions for div 6

‘In this division—

*Minister* means the Minister administering the Land Act.

*port land* means land that is, or is needed as, Brisbane core port land.

*port lease* means a lease held under the Land Act by—

- (a) the Port of Brisbane Corporation; or
- (b) a subsidiary of the Port of Brisbane Corporation; or
- (c) the port lessor.

### ‘283ZZM Grant of port land

- ‘(1) If land (including reclaimed land) above high-water mark is port land—



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- (a) the Governor in Council may issue to the port lessor, without competition, a deed of grant over all or part of the land; or
  - (b) the Minister may issue to the port lessor, without competition, a lease over all or part of the land for either a term of years or in perpetuity.
- ‘(2) If land below high-water mark is port land the Minister may issue to the port lessor, without competition, a lease over all or part of the land for either a term of years or in perpetuity.
- ‘(3) If tenure over port land is to be issued to the port lessor, the Governor in Council or the Minister may include that land with freehold land or a lease held by the port lessor.
- ‘(4) If a deed of grant is issued for reclaimed land under this division, or if reclaimed land is included in freehold land under this division, the purchase price for the land is nil.
- ‘(5) If reclaimed land is already held under a lease, the lease must be surrendered before a new lease or deed of grant is issued under this section.
- ‘(6) The following provisions of the Land Act do not apply if this section applies—
- (a) section 16;
  - (b) chapter 4, part 1, division 1;
  - (c) section 127;
  - (d) section 155(1).

### **‘283ZZN Leases and licences under Land Act**

- ‘(1) This section applies to any of the following dealings affecting land—
- (a) a transfer under the Land Act, section 322 of a sublease;
  - (b) a sublease under the Land Act, section 332;
  - (c) an amendment under the Land Act, section 336 of a sublease;

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- (d) the creation under the Land Act, section 362 of an easement that burdens or benefits a sublease;
  - (e) the registration under the Land Act, section 363 of an easement that burdens or benefits a sublease;
  - (f) an amendment under the Land Act, section 370 of a registered easement that burdens or benefits a sublease.
- ‘(2) If land affected by the dealing is held under a port lease or a sublease of a port lease, despite a provision of the Land Act mentioned in subsection (1) the Minister’s approval is not required for the dealing or the registration of a document for the dealing.
- ‘(3) If a port entity holds a lease under the Land Act of port land, or a sublease of a trade lease of land, the port entity may grant a licence to enter and use the land.
- ‘(4) Subsection (3) is subject to any condition of the lease that prohibits or restricts the grant of a licence.
- ‘(5) To remove any doubt, it is declared that the Minister’s approval under the Land Act is not required for the grant of a licence under this section.

*Note—*

See also sections 477C–477E in relation to declared projects under the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

### **‘283ZZO Amendment of area of subleases of port land**

- ‘(1) An amendment to a sublease of a port lease may increase or decrease the subleased area.
- ‘(2) To remove any doubt, it is declared that an amendment under this section increasing the area of a sublease does not constitute the surrender of a lease or sublease, or create a new lease or sublease.
- ‘(3) To remove any doubt, it is declared that an amendment under this section decreasing the area of a sublease does not

constitute the surrender of a lease or sublease of the remaining area of the sublease, or create a new lease or sublease.

### **‘283ZZP Delegation by Minister**

’The Minister may delegate a function or power under this division to the chief executive or an officer or employee of the department that administers the Land Act.

### **‘283ZZQ Application of Land Act and registration**

- ‘(1) Subject to this division, the Land Act applies to a lease granted under this division as if it were granted under the Land Act.
- ‘(2) The chief executive of the department that administers the Land Act may record a dealing effected for a lease under this division in the leasehold land register.’.

### **114 Amendment of ch 8, pt 4 hdg (Land management)**

Chapter 8, part 4, heading, after ‘management’—  
*insert—*  
‘—ports other than Port of Brisbane’.

### **115 Amendment of s 289H (Definitions for pt 4B)**

- (1) Section 289H, definition *abandoned property*, after ‘port authority’—  
*insert—*  
‘or port operator’.
- (2) Section 289H, definition *abandoned property*, after ‘port authority’s’—  
*insert—*  
‘or port operator’s’.

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- (3) Section 289H, definition *insufficient value property*, after ‘port authority’—  
*insert—*  
‘or port operator’.
- (4) Section 289H, definition *insufficient value property*, ‘the authority’—  
*omit, insert—*  
‘the port authority or port operator’.

**116 Amendment of s 289I (Reasonable steps must be taken to find owner)**

- (1) Section 289I(1), after ‘port authority’s’—  
*insert—*  
‘or port operator’s’.
- (2) Section 289I, after ‘port authority’—  
*insert—*  
‘or port operator’.

**117 Amendment of s 289J (A person may claim property)**

Section 289J, after ‘port authority’—  
*insert—*  
‘or port operator’.

**118 Amendment of s 289K (If property not claimed)**

Section 289K, after ‘port authority’—  
*insert—*  
‘or port operator’.

**119 Amendment of s 289L (Sale of perishable property)**

Section 289L, after ‘port authority’—

*insert—*

‘or port operator’.

**120 Amendment of s 289M (Proceeds from the sale of abandoned property)**

(1) Section 289M, after ‘port authority’—

*insert—*

‘or port operator’.

(2) Section 289M(1), ‘the authority’—

*omit, insert—*

‘the port authority or port operator’.

**121 Amendment of s 289N (Abandoned property of no value)**

Section 289N, after ‘port authority’—

*insert—*

‘or port operator’.

**122 Insertion of new ch 8, pts 4C–4E**

Chapter 8, after part 4B—

*insert—*

**‘Part 4C Port of Brisbane—land tax and rates**

**‘2890 Owner of land for land tax purposes**

‘(1) This section applies for the purposes of the *Land Tax Act 1915* and the *Land Tax Act 2010*.

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- ‘(2) Unless subsection (3) applies, if a lessee or sublessee of strategic port land is a subsidiary of the Port of Brisbane Corporation—
  - (a) the subsidiary is taken to be the owner of the land; and
  - (b) the Port of Brisbane Corporation is taken not to be the owner of the land.
- ‘(3) If there is a port lessee of Brisbane core port land—
  - (a) the port lessee is taken to be the owner of the land; and
  - (b) the Port of Brisbane Corporation and the port lessor are taken not to be the owner of the land.
- ‘(4) A liability of the Port of Brisbane Corporation for land tax on strategic port land that has accrued but not been paid when a lease or sublease of the land is granted by the Port of Brisbane Corporation to a subsidiary of it is a liability of the subsidiary and not a liability of the Port of Brisbane Corporation.
- ‘(5) A liability for land tax on Brisbane core port land that has accrued but not been paid when a lease or sublease of the land from the port lessor to a port lessee is terminated or expires is a liability of the entity that was the port lessee immediately before the termination or expiration and not a liability of the port lessor.
- ‘(6) In this section—

*land tax* includes unpaid tax interest and penalty tax within the meaning of the *Taxation Administration Act 2001*.

### ‘289P Owner of land for rating purposes

- ‘(1) This section applies for the purposes of the *Local Government Act 1993* and the *Local Government Act 2009* about levying or payment of rates.
- ‘(2) If a lessee or sublessee of strategic port land is a subsidiary of the Port of Brisbane Corporation—
  - (a) the lessee or sublessee is taken to be the owner of the land; and

- 
- (b) the Port of Brisbane Corporation is taken not to be the owner of the land.
- ‘(3) If Brisbane core port land is occupied under a lease or sublease from the Port of Brisbane Corporation or a port entity other than a port authority—
- (a) the occupier is taken to be the owner of the land; and
  - (b) the Port of Brisbane Corporation and each port entity that is not an occupier of the land are taken not to be the owner of the land.
- ‘(4) An entity must notify the commissioner in writing if the entity becomes a lessee or sublessee mentioned in subsection (2), or becomes a port lessee mentioned in subsection (3), within 28 days after becoming the lessee, sublessee or port lessee.
- ‘(5) A liability of the Port of Brisbane Corporation for rates in respect of strategic port land that has accrued but not been paid when a lease or sublease of the land is granted by the Port of Brisbane Corporation to a subsidiary of it is a liability of the subsidiary and not a liability of the Port of Brisbane Corporation.
- ‘(6) A liability for rates in respect of Brisbane core port land that has accrued but not been paid when a lease or sublease of the land from the port lessor to a port lessee is terminated or expires is a liability of the entity that would have been liable under subsection (5) if the lease or sublease had not terminated or expired.
- ‘(7) The following land is exempted from rates—
- (a) strategic port land that is occupied by a member of POBC Group;
  - (b) Brisbane core port land that is used for a road (other than a road maintained by a local government), vacant land, buffer zone or grass verge, or that is below the high-water mark;
  - (c) existing rail corridor land or new rail corridor land.
- ‘(8) In this section—

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*commissioner* has the meaning given under the *Taxation Administration Act 2001*.

**‘289Q When port lessor, port lessee or port manager is not liable to pay royalties or similar charges**

‘The port lessor, a port lessee or a port manager is not liable to pay royalties or similar charges for extractive material removed—

- (a) to maintain or improve navigational channels in its port, or improve navigation in its port, if the material is disposed of under relevant statutory environmental controls; or
- (b) to reclaim land that is, or is proposed to be, Brisbane core port land.

**‘Part 4D Port of Brisbane—matters relating to Water Supply (Safety and Reliability) Act 2008**

**‘289R Definition for pt 4D**

‘In this part—

*Water Supply Act* means the *Water Supply (Safety and Reliability) Act 2008*.

**‘289S Words have the same meaning as in the Water Supply Act**

‘A word used in this part and defined in the Water Supply Act has the same meaning as in the Water Supply Act.



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**‘289T Port operator is service provider**

- ‘(1) This section applies in relation to infrastructure for supplying water services or sewerage services owned by the port lessor in relation to the Port of Brisbane.
- ‘(2) For the purposes of the Water Supply Act—
- (a) a port operator, other than the port lessor, is taken to be—
    - (i) a water service provider for infrastructure for supplying water services; and
    - (ii) a sewerage service provider for infrastructure for supplying sewerage services; and
  - (b) if there is a port operator other than the port lessor—the port lessor is taken not to supply water services or sewerage services.

**‘289U Entry into service provider register**

- ‘(1) If section 289T applies—
- (a) as soon as practicable after an entity other than the port lessor becomes a port operator, the entity must give the regulator any information requested by the regulator for the purpose of registration as a service provider; and
  - (b) the regulator must—
    - (i) register the entity in the service provider register as a service provider for the relevant services; and
    - (ii) give the entity notice of the registration; and
  - (c) the Water Supply Act, sections 21 and 22 do not apply to the registration.
- ‘(2) The entity is a water service provider or sewerage service provider from the day it becomes a port operator, regardless of when it is registered.

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### **‘289V Sewerage infrastructure for Port of Brisbane**

- ‘(1) For the purposes of the Water Supply Act, chapter 2, part 3, division 4 and part 6, and sections 193, 330 and 331—
- (a) the relevant distributor-retailer is taken to be a sewerage service provider in respect of sewerage infrastructure owned by the port lessor in relation to the Port of Brisbane; and
  - (b) sewerage infrastructure mentioned in paragraph (a) is taken to be part of the relevant distributor-retailer’s infrastructure.
- ‘(2) The port lessor or, if there is a port operator other than the port lessor, the port operator must give the relevant distributor-retailer information about the sewerage infrastructure mentioned in subsection (1)(a) reasonably requested by the relevant distributor-retailer in relation to the grant or administration of trade waste approvals.
- ‘(3) In this section—

*relevant distributor-retailer* means the Brisbane City Council or another entity that owns the infrastructure connected to the sewerage infrastructure mentioned in subsection (1)(a).

### **‘289W No affect on ownership**

‘This part does not affect the ownership of any infrastructure for supplying water or sewerage services.

### **‘289X Port land trade waste approvals**

- ‘(1) This section applies to instruments issued before the commencement of this section—
- (a) purportedly as trade waste approvals for the purposes of the Water Supply Act, chapter 2, part 6; and
  - (b) by the Brisbane City Council to an occupant of land at the Port of Brisbane.

- ‘(2) The instruments are taken to be trade waste approvals issued on the commencement of this section for the purposes of the Water Supply Act.

## **‘Part 4E Port of Brisbane—other matters**

### **‘289Y Declaration of port lessor and port lessees**

- ‘(1) The Treasurer may, by gazette notice—
- (a) declare an entity to be the port lessor for the Port of Brisbane; or
  - (b) if an entity holds any Brisbane core port land under a lease, sublease or licence from the port lessor—declare the entity to be a port lessee for the Port of Brisbane.
- ‘(2) For subsection (1)(b), it does not matter whether the entity enters into the lease, sublease or licence with the port lessor or is an assignee of that instrument.

### **‘289Z Delegation by port lessor to port lessee or port manager**

- ‘(1) The port lessor may delegate a function under this chapter, other than under part 3A, to a port lessee or port manager.

*Note—*

See the *Acts Interpretation Act 1954*, section 27A.

- ‘(2) It is a condition of a lease of Brisbane core port land that the port lessee must comply with, or ensure a port manager complies with, the lawful directions of the port lessor in relation to the performance of delegated functions.
- ‘(3) A regulation or the conditions of a delegation may require the port lessee or port manager to establish a system for monitoring, and receiving and dealing with complaints about, the performance of delegated functions.

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‘(4) In this section—

*delegated function* means a function of the port lessor delegated to a port lessee or port manager.

*function* includes power.

### **‘289ZA Appointment of port manager**

‘(1) The port lessor may appoint an entity as a port manager for the Port of Brisbane.

‘(2) A port lessee may, with the written approval of the port lessor, appoint an entity as a port manager for the Port of Brisbane.

### **‘289ZB Liability for acts of authorised officers and others, and related matters**

‘(1) If a person is appointed as an authorised officer by a delegate of the port lessor—

(a) the person is not an officer, employee or agent of the port lessor only because of that appointment; and

(b) the port lessor is not civilly liable for an act done, or omission made, by the person as an authorised officer.

‘(2) If subsection (1) prevents a civil liability attaching to the port lessor, the liability attaches instead to the delegate.

‘(3) An authorised officer is not civilly liable for an act done, or omission made, by the officer for a port operator honestly and without negligence.

‘(4) If subsection (3) prevents a civil liability attaching to an authorised officer, the liability attaches instead to the delegate that appointed the officer.

‘(5) An employee of the port lessor or person acting for the port lessor, is not civilly liable for an act done, or omission made, by the employee or person for the port lessor honestly and without negligence.

- ‘(6) If subsection (5) prevents a civil liability attaching to an employee or person, the liability attaches instead to the port lessor.

### **‘289ZC Application of particular local laws to Brisbane core port land**

- ‘(1) The following local laws of the Brisbane City Council do not apply to Brisbane core port land—
- (a) local laws 6 (Streets, bridges, culverts etc.), 11 (Sundry matters relating to structures), 13 (Foreshore and retaining walls) and 14 (Parking and control of traffic);
  - (b) Heavy and Long Vehicle Parking Local Law 1999.
- ‘(2) Also, a regulation may provide that a stated local law does not apply, or does not apply to a stated extent, or applies with stated changes, to Brisbane core port land.
- ‘(3) The regulation may fix, as the time of effect, the day fixed for another matter under a gazette notice made under another provision of this Act.

*Example—*

The regulation may fix, as the time of effect, the day on which notice is published of the first land use plan for Brisbane core port land.

- ‘(4) In this section—
- time of effect* means the day on which a stated local law stops applying, or stops applying to a stated extent, or starts applying with stated changes, to Brisbane core port land.

### **‘289ZD Delayed application of new local laws to Brisbane core port land**

- ‘(1) This section applies to a local law made after the completion day.
- ‘(2) Subject to subsection (3), the local law does not apply to Brisbane core port land until the later of the following days—

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- (a) the day that is 3 months after the day the local law is made;
  - (b) the day the local law commences.
- ‘(3) Subsection (2) stops applying to the local law on the commencement of a regulation under section 289ZC about the application or non-application of the local law to the Brisbane core port land.

### **‘289ZE Port lessor may substitute for port lessee**

- ‘(1) This section applies if, at any time after the commencement of this section—
- (a) an entity ceases to be a port lessee; and
  - (b) another entity has not become a port lessee.
- ‘(2) If this chapter requires or permits something to be done by a port lessee, the thing may be done by the port lessor.’.

### **123 Amendment of s 292 (Offences)**

- (1) Section 292(1), ‘port authority’s’—  
*omit, insert—*  
‘port entity’s’.
- (2) Section 292(2), after ‘port authority’s’—  
*insert—*  
‘or relevant entity’s’.

### **124 Insertion of new ss 477C–477E**

After section 477B—  
*insert—*

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### **‘477C Concurrent subleases for declared projects**

- ‘(1) If a relevant entity holds a lease under the *Land Act 1994* of port land or land relating to a declared project that has been subleased to a person, the entity may grant a concurrent sublease of all or part of the land to another person for all or part of the term of the lease.
- ‘(2) If the Urban Land Development Authority holds a trade lease of land that has been subleased to a person, the authority may grant a concurrent sublease of all or part of the land to another person for all or part of the term of the lease.
- ‘(3) To remove any doubt, it is declared that the Minister’s approval under the *Land Act 1994* is not required for a grant of a concurrent sublease under this section.
- ‘(4) The chief executive of the department that administers the *Land Act 1994* may record a dealing effected under this section in the leasehold land register.
- ‘(5) In this section—

*declared entity* has the meaning given by the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

*declared project* has the meaning given by the *Infrastructure Investment (Asset Restructuring and Disposal) Act 2009*.

*lease* see section 267.

*port entity* see section 267.

*port land* see section 283ZZL.

*relevant entity* means the following—

- (a) the State;
- (b) a declared entity, other than the Urban Land Development Authority;
- (c) a port entity;
- (d) a railway manager;

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(e) a related body corporate of a railway manager.

*sublease* see section 267.

#### **‘477D Rent under Land Act 1994 leases for declared projects**

‘(1) This section applies to a lease, licence or permit (a *relevant lease, licence or permit*)—

(a) held under the *Land Act 1994* by the State or a State body; and

(b) that relates to—

(i) a declared project; or

(ii) land used or required in connection with—

(A) the operation of the Port of Brisbane; or

(B) the operation of the Abbot Point Coal Terminal; or

(C) the operation of a railway that is leased from the State or a State body; or

(D) activities related to any of the matters described in sub-subparagraphs (A) to (C).

‘(2) The Minister, or the Treasurer in relation to a declared project, may set the rent for a relevant lease, licence, or permit, or a class of relevant leases, licences or permits.

‘(3) Without limiting this section, rent set under this section may be set at zero dollars in total or for a rental period.

‘(4) The *Land Act 1994*, sections 182, 183, 183A, 183AA, 184 and chapter 5, part 1, division 2 do not apply to a relevant lease, licence or permit, or a class of relevant leases, licences or permits, for which rent is set under this section.

‘(5) In this section—

*declared project* see section 477C.

*lease* see section 267.



**Minister** means the Minister administering the *Land Act 1994*.

**State body** means any of the following within the meaning of the *Government Owned Corporations Act 1993*—

- (a) a GOC;
- (b) a government entity;
- (c) a subsidiary of a GOC or government entity.

#### **‘477E Licences under Land Act for declared projects**

‘(1) If a relevant entity holds a lease of land under the *Land Act 1994* in relation to a declared project, the entity may grant a licence to enter and use the land.

‘(2) To remove any doubt, it is declared that the Minister’s approval under the *Land Act 1994* is not required for the grant of a licence under this section.

‘(3) In this section—

**declared entity** see section 477C.

**lease** see section 267.

**declared project** see section 477C.

**relevant entity** means the following—

- (a) the State;
- (b) a declared entity;
- (c) a railway manager;
- (d) a related body corporate of a railway manager.’

#### **125 Insertion of new ch 20**

After chapter 19—

*insert*—

## **‘Chapter 20 Transitional provisions for Port of Brisbane**

### **‘562 Definitions for ch 20**

‘In this chapter—

‘*commencement* means the commencement of this section.

*completion day*, in relation to the Port of Brisbane, means the beginning of the day of the first declaration of a port lessee for the port under section 289Y.

*interim period* means the period from the commencement to the completion day.

*port area* see section 267AA.

*transition period*, for a port notice immediately before the completion day, means the period from the completion day until the port notice is amended or replaced so that it refers to the port lessor or its delegate.

### **‘563 Alteration of port area of Port of Brisbane during interim period**

- ‘(1) A regulation may alter the port area of the Port of Brisbane during the interim period.
- ‘(2) This section does not limit the power to make a regulation under section 267AA(3).

### **‘564 References to port area of Port of Brisbane during interim period**

‘During the interim period, a reference in chapter 8 to the port area of the Port of Brisbane includes the area of a trade lease.

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**‘565 References to port entity during interim period**

‘During the interim period, a reference in chapter 8, other than sections 267AA and 267A, to a port entity in relation to the Port of Brisbane is taken to be a reference to the port authority for the Port of Brisbane.

**‘566 References to relevant entity for charging during interim period**

‘During the interim period, for chapter 8, part 3A and section 267, definition *charge*, a subsidiary of the Port of Brisbane Corporation is taken to be a relevant entity.

**‘567 References to port authority for charging during interim period**

- ‘(1) During the interim period, a reference in chapter 8, part 3A and in section 267, definition *charge* to a port authority is taken to include a reference to a subsidiary of the Port of Brisbane Corporation.
- ‘(2) If a reference to a port authority is taken to include a reference to a subsidiary of the Port of Brisbane Corporation under subsection (1), the following apply—
- (a) a reference to the port of the Port of Brisbane Corporation is taken to include a reference to the port of the subsidiary of the Port of Brisbane Corporation;
  - (b) a reference to the port area of the Port of Brisbane Corporation is taken to include a reference to the port area of the subsidiary of the Port of Brisbane Corporation;
  - (c) a reference to the port facilities of the Port of Brisbane Corporation is taken to include a reference to the port facilities of the subsidiary of the Port of Brisbane Corporation.

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**‘568 Port notices of Port of Brisbane Corporation taken to be port notices of port lessor or delegate during transition period**

‘During the transition period—

- (a) a port notice displayed or published by the Port of Brisbane Corporation immediately before the completion day is taken to be a port notice displayed or published by the port lessor or its delegate; and
- (b) a reference in a port notice to the Port of Brisbane Corporation is taken to be a reference to the port lessor or its delegate.

**‘569 Application of ch 8, pt 4D during interim period**

‘(1) This section applies during the interim period.

‘(2) For chapter 8, part 4D—

- (a) a reference in the part to a port operator, other than the port lessor, includes a reference to a subsidiary of the Port of Brisbane Corporation that is the lessee of infrastructure—
  - (i) for supplying water services or sewerage services; and
  - (ii) that is owned by the Port of Brisbane Corporation; and
- (b) a reference in the part to the port lessor includes a reference to the Port of Brisbane Corporation.

**‘570 When member of POBC Group not liable to pay royalties or similar charges**

‘(1) This section applies during the interim period.

‘(2) A member of POBC Group is not liable to pay royalties or similar charges for extractive material removed—

- (a) to maintain or improve navigational channels in its port, or improve navigation in its port, if the material is disposed of under relevant statutory environmental controls; or
- (b) to reclaim land that is, or is proposed to be, strategic port land or Brisbane core port land.

### **'571 Authorised officers**

- '(1) This section applies to an appointment as an authorised officer for the Port of Brisbane Corporation in force, immediately before the completion day, under chapter 8, part 3B, division 2.
- '(2) The appointment continues in force on the same conditions, for a period of 3 months starting on the completion day, as if it were an appointment as an authorised officer for the port lessor.
- '(3) Subsection (2) applies subject to any earlier ending of the appointment, or change of conditions of the appointment, under this Act.

### **'572 Delegation**

- '(1) The Port of Brisbane Corporation, during the interim period, may delegate its functions under chapter 8 to a subsidiary of the Port of Brisbane Corporation.
- '(2) In this section—  
*functions* includes powers.

### **'573 Abandoned property**

- '(1) This section applies to any property that—
  - (a) immediately before the completion day, is abandoned under chapter 8, part 4B and in the possession of the Port of Brisbane Corporation; and

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- (b) is abandoned on land that, on the completion day, is in the port area of the Port of Brisbane.
- ‘(2) Anything done by the Port of Brisbane Corporation under chapter 8, part 4B in relation to the property is taken to have been done by the port operator.

**‘574 Proceeds from the sale of abandoned property**

- ‘(1) This section applies if—
- (a) property is abandoned on land that, on the completion day, is in the port area; and
  - (b) immediately before the completion day, the Port of Brisbane Corporation is holding an amount that is, under section 289M, proceeds of sale of the property.
- ‘(2) From the completion day, section 289M continues to apply to the port operator in relation to the amount.

**‘575 Amendment of regulations**

‘The amendment of a regulation by the *Transport and Other Legislation Amendment Act (No. 2) 2010*, chapter 2 does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

**126 Insertion of new sch 5B**

After schedule 5A—  
*insert—*

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## **‘Schedule 5B Core port infrastructure, port related development and port prohibited development**

section 283I, definitions *core port infrastructure*, *port prohibited development* and *port related development*

### **‘Part 1 Definitions for schedule 5B**

‘In this schedule—

*food and drink outlet* means premises used for preparing and selling food or drink to the public, on a regular basis, for consumption on or off the premises.

*freight warehouse or depot* means premises used to receive, store, or distribute goods, if at least 75% of the goods are, in each year, transported by ship through the Port of Brisbane.

*hospital* means premises—

- (a) used for medical or surgical care or treatment of patients; and
- (b) at which accommodation is provided for inpatients to stay overnight.

*medical centre* means premises—

- (a) used for medical or surgical care or treatment of patients; and
- (b) at which accommodation is not provided for patients to stay overnight.

*nature based recreation facility* means premises used for minor recreational facilities that cause minimal impact on the environment.

*Examples—*

boardwalks, picnic facilities and premises used to educate visitors about an area's ecology

***office—***

- 1 *Office* means premises used for an administrative, professional or management service, other than the manufacture or sale of goods.

*Example—*

a financial institution's office

- 2 However, *office* does not include ancillary offices for core port infrastructure.

***port terminal facility—***

- 1 *Port terminal facility* means premises used for handling shipping freight or dealing with a ship's passengers.
- 2 *Port terminal facility* includes facilities within a building that are used to provide goods and services, including, for example, services to a ship's passengers.

*Example of facilities for paragraph 2—*

- arts and craft stores, bookstores, gift or souvenir stores, newsagencies, pharmacies and toy stores
- tourism or accommodation booking offices

***residential development*** means premises in which people reside or stay, whether permanently or temporarily.

*Examples—*

dwelling house, hostel, hotel, motel, multiple dwelling, relocatable home park, residential care facility, retirement facility and caretaker's accommodation

***seafarers' centre*** means premises where chaplaincy services and rest and recreational facilities are provided primarily for seafarers.

***service station—***

- 1 *Service station* means premises used primarily for the sale of fuel for vehicles.



2 *Service station* includes part of any premises mentioned in paragraph 1 used to maintain, service, repair, clean or hire vehicles, or as a shop (minor) or food and drink outlet.

***shop (minor)*** means premises that—

- (a) are used for the display or retail of goods or personal services; and
- (b) have a gross floor area of not more than 2500m<sup>2</sup>.

*Examples—*

beauty salon, dry cleaning shop, laundromat and supermarket

***shopping facility (major)*** means a building or group of buildings that—

- (a) are used primarily as shops or retail showrooms; and
- (b) are an integrated development; and
- (c) have a gross floor area of more than 2500m<sup>2</sup>.

*Examples—*

department store, discount department store, discount factory outlet, retail warehouse, shopping centre and a showroom or wholesale facility

***sport and recreation (major)*** means premises that—

- (a) are used for sporting or recreational activities; and
- (b) have an area of more than 2500m<sup>2</sup>.

*Examples—*

race track, sporting field and motor sport track

***tourist attraction (major)*** means premises that—

- (a) are used primarily for public entertainment or recreation; and
- (b) have an area of more than 2500m<sup>2</sup>.

*Examples—*

theme park and zoo

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*transport and equipment depot* means premises used to garage, store or maintain vehicles and equipment, including, for example, trucks and earthmoving equipment.

*visitor centre* means premises used primarily to provide information to visitors about the Port of Brisbane or training relating to the port, including premises containing an office, cafe or meeting rooms.

*warehouse (general)* means a building used for the storage or distribution of goods, other than a freight warehouse or depot or transport and equipment depot.

*wind farm* means premises that—

- (a) are used for generating electricity by wind force; and
- (b) have an area of more than 2500m<sup>2</sup>.

## **‘Part 2                                  Core port infrastructure**

‘The following are core port infrastructure for Brisbane core port land—

- (a) berths;
- (b) bulk loading and unloading facilities;
- (c) communications or telecommunications facilities;
- (d) conveyors and pipelines;
- (e) customs, immigration and quarantine facilities, including facilities for underbond storage and housing of animals;
- (f) defence facilities;
- (g) emergency service facilities, including, for example, a base for water police;
- (h) facilities for handling dredged material;
- (i) freight warehouse or depot;



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- (e) tourist attraction (major);
- (f) wind farm.’.

## ‘Part 4                      Port related development

‘Development for a following purpose is port related development for Brisbane core port land—

- (a) food and drink outlet;
- (b) medical centre;
- (c) nature based recreation facility;
- (d) office;
- (e) park;
- (f) seafarers’ centre;
- (g) service station;
- (h) shop (minor);
- (i) visitor centre;
- (j) warehouse (general).’.

### 127      **Amendment of sch 6 (Dictionary)**

- (1) Schedule 6, definitions *development*, *draft plan*, *port*, *port area* and *statement of proposal*—

*omit.*

- (2) Schedule 6—

*insert*—

‘***advice agency*** means an advice agency for a development application under the Planning Act.

***assessment manager*** means the assessment manager for a development application under the Planning Act.

***balance port land*** see section 283I.

***Brisbane core port land*** see section 283I.

***Brisbane port LUP*** see section 283I.

***Brisbane port railway land***, for chapter 8, part 3C, see section 283I.

***community infrastructure designation*** for chapter 8, part 3C, see section 283I.

***completion day***—

- (a) for chapter 8, see section 267; or
- (b) for chapter 20, see section 562.

***concurrence agency*** means a concurrence agency for a development application under the Planning Act.

***consultation period***, for chapter 8, part 3C, see section 283I.

***contributions schedule***, for chapter 8, part 3C, see section 283I.

***core matters***, for chapter 8, part 3C, see section 283I.

***core port infrastructure*** see section 283I.

***development***—

- (a) for chapter 8, part 3C, means development under the Planning Act; or
- (b) for chapter 11, see section 402.

***development application*** means an application for a development approval.

***development approval*** means a development approval under the Planning Act.

***draft plan***—

- (a) for chapter 8, part 3C, see section 283I; or
- (b) for chapter 8, part 4, see section 285B.

**first Brisbane port LUP**, for chapter 8, part 3C, see section 283I.

**food and drink outlet**, for schedule 5B, see schedule 5B, part 1.

**former land use plan**, for chapter 8, part 3C, see section 283I.

**freight warehouse or depot**, for schedule 5B, see schedule 5B, part 1.

**high-water mark**, for chapter 8, part 3C, see section 283I.

**hospital**, for schedule 5B, see schedule 5B, part 1.

**IDAS** means the system detailed in the Planning Act, chapter 3, for integrating State and local government assessment and approval processes for development.

**IDAS process** means the process for dealing with a development application under the IDAS stages under the Planning Act.

**interim period**, for chapter 20, see section 562.

**Land Act**, for chapter 8, see section 267.

**land use and development**, for chapter 8, part 3C, see section 283I.

**lease**, for chapters 8 and 20, see section 267.

**material change of use** see the Planning Act, section 10.

**medical centre**, for schedule 5B, see schedule 5B, part 1.

**member of POBC Group** means the Port of Brisbane Corporation or a subsidiary of the Port of Brisbane Corporation.

**Minister**, for chapter 8, part 3C, division 6, see section 283ZZL.

**minor amendment (LUP)**, for chapter 8, part 3C, see section 283I.

*nature based recreation facility*, for schedule 5B, see schedule 5B, part 1.

*office*, for schedule 5B, see schedule 5B, part 1.

*operational work* see the Planning Act, section 10(1).

*park*, for schedule 5B, see schedule 5B, part 1.

*plan commencement day*, for chapter 8, part 3C, see section 283I.

*planned transport infrastructure*, for chapter 8, part 3C, see section 283I.

*Planning Act* means the *Sustainable Planning Act 2009*.

*planning chief executive* means the chief executive of the department in which the Planning Act is administered.

*planning Minister* means the Minister administering the Planning Act.

*planning scheme* means a planning scheme under the Planning Act.

*port*—

- (a) of a port authority, means a port for which the authority is responsible; or
- (b) of the port lessor, means the port for which the port lessor is declared to be the port lessor; or
- (c) of a port lessee, means the port for which the port lessee is declared to be a port lessee; or
- (c) of a port manager, means a port for which the port lessor that appointed, or approved the appointment of, the port manager, is declared to be the port lessor.

*port agreement*, for chapter 8, see section 267.

*port area*, for chapters 8 and 20, see section 267AA.

*port entity*, for chapters 8 and 20, see section 267.

*port land*, for chapter 8, part 3C, division 6, see section 283ZZL.

**port lease**, for chapter 8, part 3C, division 6, see section 283ZZL.

**port lessee** see section 267.

**port lessor** see section 267.

**port manager** see section 267.

**Port of Brisbane Corporation** means Port of Brisbane Corporation Limited ACN 124 048 522.

**port operator**, for chapters 8 and 20, see section 267.

**port prohibited development** see section 283I.

**port related development** see section 283I.

**port services**, for chapter 8, see section 267.

**port terminal facility**, for schedule 5B, see schedule 5B, part 1.

**port user**, for chapter 8, see section 267.

**precinct**, for chapter 8, part 3C, see section 283I.

**premises**, for chapter 8, part 3C and schedule 5B, see section 283I.

**priority infrastructure interface plan**, for chapter 8, part 3C, see section 283I.

**priority infrastructure plan**, for chapter 8, part 3C, see section 283I.

**properly made submission**, for chapter 8, part 3C, see section 283I.

**reconfiguring a lot** see the Planning Act, section 10.

**referral agency** means a referral agency for a development application under the Planning Act.

**registered interest**, for chapter 8, part 3C, see section 283I.

**related body corporate** has the meaning given in the Corporations Act.

**relevant entity**, for chapters 8 and 20, see section 267.



*residential development*, for schedule 5B, see schedule 5B, part 1.

*seafarers' centre*, for schedule 5B, see schedule 5B, part 1.

*service provider*, for chapter 8, part 3C, see section 283I.

*service station*, for schedule 5B, see schedule 5B, part 1.

*shop (minor)*, for schedule 5B, see schedule 5B, part 1.

*shopping facility (major)*, for schedule 5B, see schedule 5B, part 1.

*sport and recreation (major)*, for schedule 5B, see schedule 5B, part 1.

*State interest*, for chapter 8, part 3C, see section 283I.

*statement of proposal*—

(a) for chapter 8, part 3C, see section 283I; or

(b) for chapter 8, part 4, see section 285A.

*State planning instrument*, for chapter 8, part 3C, see section 283I.

*strategic plan*, for chapter 8, part 3C, see section 283I.

*sublease*, for chapters 8 and 20, see section 267.

*subsidiary*, of a body corporate, has the meaning given in the Corporations Act.

*table of assessment*, for chapter 8, part 3C, see section 283I.

*tourist attraction (major)*, for schedule 5B, see schedule 5B, part 1.

*trade lease* see section 267.

*transition period*, for chapter 20, see section 562.

*transport and equipment depot*, for schedule 5B, see schedule 5B, part 1.

*transport Minister*, for chapter 8, part 3C, see section 283I.

*transport reasons*, for chapter 8, part 3C, see section 283I.

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*Treasurer* means the Minister who administers the *Financial Accountability Act 2009*.

*Urban Land Development Authority* means the Urban Land Development Authority established under the *Urban Land Development Act 2007*.

*valuable features*, for chapter 8, part 3C, see section 283I.

*vessel*, for chapter 8, see section 267.

*visitor centre*, for schedule 5B, see schedule 5B, part 1.

*warehouse (general)*, for schedule 5B, see schedule 5B, part 1.

*Water Supply Act*, for chapter 8, part 4D, see section 289R.

*wind farm*, for schedule 5B, see schedule 5B, part 1.’.

(3) Schedule 6, definition *commencement*—

*insert*—

‘(d) for chapter 20, see section 562.’.

## **Part 19**                      **Amendment of Transport Infrastructure (Ports) Regulation 2005**

### **128**    **Regulation amended**

This part amends the *Transport Infrastructure (Ports) Regulation 2005*.

### **129**    **Amendment of sch 2 (Port Management)**

Schedule 2, entry for Brisbane—

*omit*.

---

## **Part 20**                      **Amendment of Transport Infrastructure (Rail) Regulation 2006**

### **130**    **Regulation amended**

This part amends the *Transport Infrastructure (Rail) Regulation 2006*.

### **131**    **Amendment of s 38 (Commercial activities)**

(1) Section 38(2) and (3), ‘QR Limited’—

*omit, insert—*

‘a rail GOC’.

(2) Section 38(4)—

*omit.*

## **Part 21**                      **Amendment of Transport Operations (Marine Pollution) Act 1995**

### **132**    **Act amended**

This part amends the *Transport Operations (Marine Pollution) Act 1995*.

### **133**    **Amendment of s 17 (Development and approval of marine pollution prevention and response programs)**

Section 17(4) after ‘port authorities’—

[s 134]

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*insert—*

‘, port operators’.

**134 Amendment of s 66 (Reception facilities)**

(1) Section 66(2), (3), (5) and (7), after ‘owner or occupier’—

*insert—*

‘or a port operator’.

(2) Section 66(6), after ‘owner’s or occupier’s’

*insert—*

‘or a port operator’s’.

**135 Amendment of s 93 (State has prime responsibility for directing emergency response)**

(1) Section 93(3) and (4), after ‘port authority’—

*insert—*

‘or port operator’.

(2) Section 93(5), ‘or port authority’—

*omit, insert—*

‘, port authority or port operator’.

**136 Amendment of s 111 (Definitions for part)**

(1) Section 111, definition *discharge expenses*, ‘or a port authority’—

*omit, insert—*

‘, a port authority or a port operator’.

(2) Section 111, definition *discharge expenses*, ‘or port authority’—

---

*omit, insert—*

‘, port authority or port operator’.

**137 Amendment of s 113 (Detained ship must be released on giving security)**

(1) Section 113(2) and (3), after ‘port authority’s’—

*insert—*

‘or port operator’s’.

(2) Section 113(3), ‘the authority’—

*omit, insert—*

‘the port authority or port operator’.

**138 Amendment of s 115 (Recovery of discharge expenses)**

(1) Section 115(1), ‘or a port authority’—

*omit, insert—*

‘, a port authority or a port operator’.

(2) Section 115(2), after ‘port authority’s’—

*insert—*

‘or port operator’s’.

(3) Section 115(10), after ‘port authority’—

*insert—*

‘or port operator’.

**139 Amendment of s 118 (Evidentiary provisions)**

Section 118(9), ‘or a port authority’—

*omit, insert—*

‘, a port authority or a port operator’.

[s 140]

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**140 Amendment of s 122 (How discharge expenses may be recovered)**

- (1) Section 122(1), ‘or a port authority’—  
*omit, insert—*  
‘, a port authority or a port operator’.
- (2) Section 122(2), after ‘port authority’s’—  
*insert—*  
‘or port operator’s’.
- (3) Section 122(2), (3) and (4), after ‘port authority’—  
*insert—*  
‘or port operator’.

**141 Amendment of s 127 (Court may make orders about rehabilitation etc.)**

- (1) Section 127(3)(b), ‘or a port authority’—  
*omit, insert—*  
‘, a port authority or a port operator’.
- (2) Section 127(3), ‘or the port authority’—  
*omit, insert—*  
‘, the port authority or the port operator’.

**142 Amendment schedule (Dictionary)**

Schedule—

*insert—*

*‘port operator’ has the meaning given in the Transport Infrastructure Act 1994, section 267.’.*

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## **Part 22**                      **Amendment of Transport Operations (Marine Pollution) Regulation 2008**

### **143**    **Regulation amended**

This part amends the *Transport Operations (Marine Pollution) Regulation 2008*.

### **144**    **Amendment of s 80 (Authorised officers)**

Section 80(1)—

*insert—*

‘(da) an officer or employee of a port operator;’.

## **Part 23**                      **Amendment of Transport Operations (Marine Safety) Act 1994**

### **145**    **Act amended**

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

### **146**    **Amendment of s 25 (Development of marine safety implementation programs)**

Section 25(4), after ‘port authorities’—

*insert—*

‘or a port operator’.

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## **147 Amendment schedule (Dictionary)**

Schedule—

*insert—*

‘*port operator* has the meaning given in the *Transport Infrastructure Act 1994*, section 267.’.

# **Part 24 Amendment of Transport Operations (Marine Safety) Regulation 2004**

## **148 Regulation amended**

This part amends the *Transport Operations (Marine Safety) Regulation 2004*.

## **149 Amendment of s 140 (Reporting requirements for ship with dangerous cargo)**

- (1) Section 140(5), ‘or the Bundaberg pilotage area’—  
*omit.*
- (2) Section 140(10), definition *DGTrac system*, after ‘the Port of Brisbane Corporation Limited’—  
*insert—*  
‘, a subsidiary of the Port of Brisbane Corporation or a port operator’.
- (3) Section 140(10), definition *DGTrac system*, ‘and the Bundaberg pilotage area’—  
*omit.*



**150 Amendment of s 210 (Limitations on buoy mooring approvals)**

Section 210(2), after ‘port authority’—  
*insert*—  
‘or a port operator’.

**Part 25 Amendment of Transport Operations (Passenger Transport) Act 1994**

**151 Act amended**

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

**152 Amendment of s 111 (Appointment of authorised persons generally)**

- (1) Section 111(6)(a), ‘QR Passenger Pty Ltd ACN 132 181 090’—  
*omit, insert*—  
‘a rail GOC or a subsidiary of a rail GOC’.
- (2) Section 111(6)(b), ‘QR Passenger Pty Ltd ACN 132 181 090’—  
*omit, insert*—  
‘the rail GOC or subsidiary’.
- (3) Section 111—  
*insert*—

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‘(7) In this section—

‘*rail GOC* see the *Transport Infrastructure Act 1994*, schedule 6.’.

## **Part 26**                      **Amendment of Transport Operations (Passenger Transport) Regulation 2005**

### **153**      **Regulation amended**

This part amends the *Transport Operations (Passenger Transport) Regulation 2005*.

### **154**      **Amendment of s 144 (Operation of Brisbane Airport Rail Link)**

(1) Section 144(1), ‘QR Passenger Pty Ltd ACN 132 181 090’—

*omit, insert—*

‘a rail GOC or a subsidiary of a rail GOC’.

(2) Section 144(3)—

*insert—*

‘*rail GOC* see the *Transport Infrastructure Act 1994*, schedule 6.’.

(3) Section 144(3), definition *BARL*, ‘QR Network Pty Ltd ACN 132 181 116’—

*omit, insert—*

‘a rail GOC or a subsidiary of a rail GOC’.

---

## **Part 27**                      **Amendment of Transport Planning and Coordination Act 1994**

### **155 Act amended**

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

### **156 Amendment of s 3 (Definitions)**

Section 3, definition *transport GOC*—  
*omit, insert*—

*'transport GOC* means—

- (a) a rail GOC or GOC port authority within the meaning of the *Transport Infrastructure Act 1994*; or
- (b) any other GOC or candidate GOC (within the meaning of the *Government Owned Corporations Act 1993*), on which functions are conferred under the *Transport Infrastructure Act 1994*.’.

## **Part 28**                      **Amendment of Transport (South Bank Corporation Area Land) Act 1999**

### **157 Act amended**

This part amends the *Transport (South Bank Corporation Area Land) Act 1999*.

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**158 Replacement of s 13 (Exemption from fees and charges)**

Section 13—

*omit, insert—*

**‘13 Exemption from fees and charges**

‘(1) No fee or charge, including any duty under the *Duties Act 2001*, is payable by any of the following in relation to dealings with land to give effect to this part—

- (a) the State;
- (b) the corporation;
- (c) a rail GOC;
- (d) QR Limited ACN 124 649 967;
- (e) a related body corporate of an entity mentioned in paragraph (c) or (d).

‘(2) In this section—

*rail GOC* see the *Transport Infrastructure Act 1994*, schedule 6.

*related body corporate* has the meaning given in the Corporations Act.’.

**Part 29 Amendment of Urban Land Development Authority Act 2007**

**159 Act amended**

This part amends the *Urban Land Development Authority Act 2007*.

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**160 Insertion of new s 14A**

After section 14—

*insert—*

**‘14A Special provision for Northshore Hamilton urban development area**

- ‘(1) This section applies in relation to balance port land that is in the Northshore Hamilton urban development area under this Act.
- ‘(2) A person may apply to the authority to restart a use of premises on the land if—
- (a) the use—
    - (i) is authorised under a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect; or
    - (ii) was a lawful use of premises immediately before the taking of effect of the first interim land use plan; or
    - (ii) is generally consistent with a use mentioned in subparagraph (i) or (ii); and
  - (b) the application is made within 6 months after the use stopped.
- ‘(3) For making, dealing with and deciding the application, part 4, division 3 applies, with any necessary changes, as if it were a UDA development application.
- ‘(4) A person may, under section 75, apply to the authority to change a development approval for a use mentioned in subsection (2)(a)(i) or (ii) to an extent that—
- (a) only changes the configuration or layout of buildings, other structures or plant; and
  - (b) does not involve an extension of the area of any buildings, other structures or plant.

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- ‘(5) A person may apply to the authority to change a development approval issued by the Port of Brisbane Corporation before the day the first interim land use plan had effect, as if the approval were a UDA development approval.
- ‘(6) An application under subsection (4) or (5) may be made under section 75 as if it were an amendment application under that section.

*Note—*

Under section 75(2), an amendment application may be made only if the authority is satisfied the change would not result in the relevant development being materially different.

- ‘(7) An application mentioned in this section may be made to the authority, and approved by the authority, despite any provision of the northshore scheme that prohibits the development.
- ‘(8) An application mentioned in this section may be made in relation to premises from the commencement until the day the term of the current lease for the premises ends.
- ‘(9) In this section—

***balance port land*** see the *Transport Infrastructure Act 1994*, section 283I.

***commencement*** means the day this section commences.

***current lease***, for premises, means a lease that is in existence for the premises immediately before the commencement of this section.

***first interim land use plan*** means the first interim land use plan for the Northshore Hamilton urban development area under this Act.

***Port of Brisbane Corporation*** means Port of Brisbane Corporation Limited ACN 124 048 522.’.

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## **Part 30**                      **Amendment of Workplace Health and Safety Regulation 2008**

### **161**    **Regulation amended**

This part amends the *Workplace Health and Safety Regulation 2008*.

### **162**    **Amendment of sch 18 (Dictionary)**

Schedule 18, definition *relevant authority*—  
*omit*.

## **Chapter 3**                      **Particular amendments relating to busways or light rail**

### **Part 1**                              **Amendment of Land Act 1994**

#### **163**    **Act amended**

This part amends the *Land Act 1994*.

#### **164**    **Amendment of s 390B (Particular dealing with rail land)**

(1) Section 390B, heading, ‘rail’—

*omit, insert—*

**‘prescribed’.**

(2) Section 390B(1) and (2), ‘rail’—





(xi) allows managers and operators of busways and light rail to make decisions on a commercial basis; and’.

(2) Section 2(2)(j)—

*insert—*

‘(iv) the construction, management and operation of light rail transport infrastructure under a light rail franchise agreement.’.

## **167 Insertion of new s 303AB**

After section 303AA—

*insert—*

### **‘303AB Licence in relation to busway land or busway transport infrastructure**

‘(1) The chief executive may, for the State, grant to a person a licence in relation to busway land or busway transport infrastructure for any of the following purposes—

- (a) construction, maintenance or operation of any thing on the land;
- (b) the use of the land or infrastructure for any purpose, including, for example, a commercial or retail purpose;

*Examples—*

- the erection, alteration or operation of an advertising sign or other advertising device
- a retail outlet

(c) maintenance, management or operation of the land or infrastructure.

‘(2) A licence under subsection (1) is subject to any conditions that the chief executive considers appropriate and that are stated in the licence.

‘(3) If a licence is granted under subsection (1) in relation to busway land—

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- (a) the chief executive must give written notice of the licence to the registrar of titles; and
  - (b) the registrar of titles must record the licence against the land, including any lease and sublease of the land, in the appropriate register.
- ‘(4) A licence under subsection (1) may be mortgaged, sublicenced or transferred with the consent of the chief executive.
- ‘(5) Despite the *Land Act 1994*, chapter 4, part 4, the chief executive of the department in which that Act is administered can not issue a permit to occupy—
- (a) busway land to which a licence under subsection (1) relates; or
  - (b) land on which busway transport infrastructure to which a licence under subsection (1) relates is, or is proposed to be, situated.
- ‘(6) Subsection (7) applies if there is any inconsistency between—
- (a) a local government’s control of a road under the *Local Government Act 1993*, section 901 or the *Local Government Act 2009*, section 60, other than for a matter mentioned in section 305 or 307 of this Act; and
  - (b) a provision of a licence under subsection (1).
- ‘(7) To the extent of the inconsistency the provision of the licence prevails.
- ‘(8) In this section—
- busway land* includes land—
- (a) held by the chief executive on behalf of the State; and
  - (b) on which busway transport infrastructure is, or is proposed to be, situated.’.

**168 Amendment of s 352 (Definition for pt 3)**

Section 352, definition *road*—

*omit, insert—*

**‘road—**

- (a) means a road under the *Land Act 1994*; and
- (b) includes a State-controlled road.’.

**169 Amendment of s 353 (Declaration of land as light rail land)**

- (1) Section 353(2)(b), after ‘infrastructure’—

*insert—*

‘, which may be land on which transport infrastructure other than light rail transport infrastructure is situated or operated’.

- (2) Section 353(4)(a) and (b)—

*omit, insert—*

- ‘(a) unallocated State land and other land held by the State;  
or
- (b) land granted in trust under the *Land Act 1994*, chapter 3, part 1, division 3; or’.

**170 Amendment of s 354 (Effect on land of light rail declaration)**

- (1) Section 354(4)—

*omit.*

- (2) Section 354(3A)—

*renumber* as section 354(4).

- (3) Section 354(5), ‘Governor in Council’—

*omit, insert—*

‘Minister administering the *Land Act 1994*’.

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## **171 Amendment of s 355 (Sublease of lease of light rail land)**

(1) Section 355(10)—

*renumber* as section 355(12).

(2) Section 355—

*insert*—

‘(10) Despite subsection (1) or (4), the Minister may impose any condition on a sublease, option or subsequent sublease granted under this section that the Minister considers necessary to—

(a) achieve the objectives of this Act mentioned in section 2; or

(b) ensure public safety.

‘(11) A condition imposed by the Minister under subsection (10) takes effect on the day stated in a notice given, for the purposes of this subsection, by the Minister to the other party to the sublease, option or subsequent sublease.’.

## **172 Insertion of new s 355A**

After section 355—

*insert*—

### **‘355A Licence in relation to light rail land or infrastructure**

‘(1) The chief executive may, for the State, grant to a person a licence in relation to light rail land or light rail transport infrastructure for any of the following purposes—

(a) construction, maintenance or operation of any thing on the land;

(b) the use of the land or infrastructure for any purpose, including, for example, a commercial or retail purpose;

*Examples*—

- the erection, alteration or operation of an advertising sign or other advertising device

- 
- a retail outlet
- (c) maintenance, management or operation of the land or infrastructure.
- ‘(2) A licence under subsection (1) is subject to any conditions that the chief executive considers appropriate and that are stated in the licence.
- ‘(3) If a licence is granted under subsection (1) in relation to light rail land—
- (a) the chief executive must give written notice of the licence to the registrar of titles; and
  - (b) the registrar of titles must record the licence against the land, including any lease and sublease of the land, in the appropriate register.
- ‘(4) A licence under subsection (1) may be mortgaged, sublicenced or transferred with the consent of the chief executive.
- ‘(5) Despite the *Land Act 1994*, chapter 4, part 4, the chief executive of the department in which that Act is administered can not issue a permit under that provision to occupy—
- (a) light rail land to which a licence under subsection (1) relates; or
  - (b) land on which light rail transport infrastructure to which a licence under subsection (1) relates is, or is proposed to be, situated.
- ‘(6) Subsection (7) applies if there is any inconsistency between—
- (a) a local government’s control of a road under the *Local Government Act 1993*, section 901 or the *Local Government Act 2009*, section 60, other than for a matter mentioned in section 357 or 358 of this Act; and
  - (b) a provision of a licence under subsection (1).
- ‘(7) To the extent of the inconsistency the provision of the licence prevails.
- ‘(8) In this section—

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*light rail land* includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which light rail transport infrastructure is, or is proposed to be, situated.’.

**173 Amendment of s 360A (Powers of chief executive for light rail transport infrastructure works contracts etc.)**

- (1) Section 360A(1)(b) and (c)—

*omit, insert—*

- ‘(b) works on land affected by a light rail or a proposed light rail, including, for example, road works on a road; or
- (c) other works that contribute to the effectiveness and efficiency of the light rail network; or
- (d) the operation of a light rail; or
- (e) the operation of a public passenger service using light rail transport infrastructure.’.

- (2) Section 360A(10)(c) and (d)—

*omit, insert—*

- ‘(c) works on land affected by a light rail or a proposed light rail, including, for example, road works on a road; or
- (d) other works that contribute to the effectiveness and efficiency of the light rail network; or
- (e) the operation of a light rail; or
- (f) the operation of a public passenger service using light rail transport infrastructure;’.

**174 Insertion of new s 361A**

Chapter 10, part 4, division 2—

*insert—*

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**‘361A Definition for div 2**

‘In this division—

*interfere with*, light rail transport infrastructure, includes carrying out works on the infrastructure.’.

**175 Amendment of s 362 (Interfering with light rail transport infrastructure)**

(1) Section 362, heading, after ‘infrastructure’—

*insert—*

**‘or works’.**

(2) Section 362(1), from ‘(1)’ to ‘executive; or’—

*omit, insert—*

‘(1) A person must not interfere with light rail transport infrastructure or light rail transport infrastructure works, unless—

(a) the person has the written approval of—

(i) for light rail transport infrastructure for light rail for which there is a light rail manager—the manager; or

(ii) for light rail transport infrastructure works constructed or maintained for, or that facilitate operation of, light rail transport infrastructure for light rail for which there is a light rail manager—the manager; or

(iii) otherwise—the chief executive; or’.

(3) Section 362(1)(b) and (c) and (2), ‘or works are’—

*omit, insert—*

‘is’.

**176 Amendment of s 363 (Rectifying unauthorised interference or works)**

- (1) Section 363, heading ‘or works’—  
*omit.*
- (2) Section 363(1), from ‘or carries’ to ‘infrastructure’—  
*omit, insert—*  
‘light rail transport infrastructure or light rail transport infrastructure works’.
- (3) Section 363(2)—  
*omit, insert—*
- ‘(2) If there is a light rail manager for a light rail established for the light rail transport infrastructure or for light rail transport infrastructure to which the light rail transport infrastructure works relate, the manager may give a written notice to the identified person requiring the person to rectify the interference within a stated reasonable time.’.
- (4) Section 363(4)—  
*omit, insert—*
- ‘(4) If subsection (2) does not apply, the chief executive may give a written notice to the identified person requiring the person to rectify the interference within a stated reasonable time.’.
- (5) Section 363(6) and (7)(a), ‘or the effect of the carrying out of the works’—  
*omit.*
- (6) Section 363(7)(b)—  
*omit, insert—*  
‘(b) changing the way the light rail transport infrastructure is built, maintained or operated, or the way the light the light rail transport infrastructure works are done, because of the interference.’.
- (7) Section 363(9), definition *rectify the interference*—



*insert—*

‘(c) for interference involving the carrying out of works on light rail transport infrastructure—rectify the effect of the carrying out of the works.’.

**177 Amendment of s 377 (Trespass on light rail land or light rail transport infrastructure)**

(1) Section 377, heading and subsections (1) and (2)—

*omit, insert—*

**‘377 Trespass on light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site**

‘(1) A person must not, without reasonable excuse, be on a light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site unless the person has the relevant person’s permission to be on the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site.

Maximum penalty—40 penalty units.

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

(a) expressly, by—

(i) signs, structures, textured pavement or painted lines designating points for vehicles or pedestrians to cross the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site; or

(ii) signs designating the hours during which the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site may be used by pedestrians to access a public passenger service; or

(iii) signs, markings or signals designating a part of the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure

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works site as being open to traffic or to a member of the public to access a public passenger service;  
or

- (b) impliedly, by the absence of demarcation between ordinary road and the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site.’.

- (2) Section 377(4) and (5)—

*omit, insert—*

- ‘(4) A regulation may include rules about the use of a light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site by—

- (a) light rail vehicles; or
- (b) persons having the permission of the chief executive to be on the light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works site.

- ‘(5) In this section—

***light rail land*** includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which light rail transport infrastructure is situated.

***light rail transport infrastructure works site*** means land on which light rail transport infrastructure works are situated.

***relevant person*** means—

- (a) for a light rail, light rail land on which there is a light rail, or light rail transport infrastructure used for a light rail, for which there is a light rail manager—the manager; or
- (b) for a light rail, light rail land or light rail transport infrastructure to which paragraph (a) does not apply—the chief executive; or

- 
- (c) for a light rail transport infrastructure works site for light rail transport infrastructure works relating to a light rail for which there is a light rail manager—the manager; or
  - (d) for a light rail transport infrastructure works site to which paragraph (c) does not apply—the chief executive.’.

## **178 Insertion of new ch 10, pt 4, div 4A**

After chapter 10, part 4, division 4—

*insert—*

### **‘Division 4A Franchised light rail**

#### **‘Subdivision 1 Preliminary**

##### **‘377A Objectives of division**

‘The objectives of this division are—

- (a) to assist and encourage private investment in the construction, maintenance and operation of light rail transport infrastructure; and
- (b) by the involvement of private investment, to enable light rail transport infrastructure projects to be undertaken, or public passenger services using light rail transport infrastructure to be provided, at an earlier time than would otherwise be possible; and
- (c) to provide an appropriate management structure for the construction, maintenance and operation of light rail transport infrastructure, or the operation of a public passenger service using light rail transport infrastructure, on a commercial basis.

## **‘Subdivision 2      Franchised light rail**

### **‘377B Power to enter into light rail franchise agreements**

- ‘(1) The Minister may, for the State, enter into an agreement (a *light rail franchise agreement*) with a person under which, or as part of which, the person is to invest in 1 or more of the following—
- (a) works for, or associated with, establishing a light rail;
  - (b) designing light rail transport infrastructure;
  - (c) constructing light rail transport infrastructure;
  - (d) maintaining light rail transport infrastructure;
  - (e) managing light rail transport infrastructure;
  - (f) operating light rail transport infrastructure;
  - (g) operating a public passenger service using light rail transport infrastructure.
- ‘(2) The agreement must be consistent with—
- (a) the coordination plan; and
  - (b) the objectives of this Act; and
  - (c) the current transport infrastructure strategies; and
  - (d) the obligations about government supported transport infrastructure set out in section 9.
- ‘(3) The agreement may include, for example, provisions about any or all of the following—
- (a) the ownership of the light rail transport infrastructure;
  - (b) the transfer of rights under the light rail franchise agreement;
  - (c) the granting of security in relation to the light rail transport infrastructure;
  - (d) charges for the use of the light rail transport infrastructure;

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- (e) administration charges in relation to the charges mentioned in paragraph (d);
  - (f) the safety and standard of the light rail transport infrastructure;
  - (g) for an agreement relating to operating a public passenger service using light rail transport infrastructure—
    - (i) the level of the service that is to be provided; and
    - (ii) performance measures relating to the operation of the service;
  - (h) any other matter that the Minister considers necessary or desirable in the circumstances.

### **‘377C Operating public passenger service under agreement**

- ‘(1) This section applies if a light rail franchise agreement relates to operating a public passenger service using light rail transport infrastructure.
- ‘(2) The *Transport Operations (Passenger Transport) Act 1994*, chapter 6 does not apply to the light rail franchise agreement or the operation of the public passenger service.
- ‘(3) The *Transport Operations (Passenger Transport) Regulation 2005*, part 8 does not apply in relation to the operation of the public passenger service or the operation of a light rail vehicle for the service.

### **‘377D Tabling of light rail franchise agreements**

- ‘(1) The Minister must table each light rail franchise agreement and each amendment of a light rail franchise agreement in the Legislative Assembly as soon as practicable after it is entered into.

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- ‘(2) However, subsection (1) does not require the Minister to table a part of a light rail franchise agreement or amendment of a light rail franchise agreement if—
- (a) the person with whom the State has entered the agreement gives the Minister a written notice claiming the part of the agreement or amendment should be treated as confidential on the grounds of commercial confidentiality; and
  - (b) the Minister reasonably considers the part of the agreement or amendment would be—
    - (i) exempt information under the *Right to Information Act 2009*; or
    - (ii) information disclosure of which could reasonably be expected to cause a public interest harm as mentioned in the *Right to Information Act 2009*, schedule 4, part 4, item 7.’.

### **‘377E Report on operation of division**

‘Each annual report of the department must include a report on the operation of this division during the financial year to which the report relates.

### **‘377F Recovery of money**

‘If a light rail franchise agreement provides that the Minister may recover an amount from a franchisee, the amount may be recovered as a debt payable by the franchisee to the State.

### **‘377G Rateability of land**

- ‘(1) A regulation may provide that light rail franchise agreement land is not rateable land under the *Local Government Act 1993* or *Local Government Act 2009*.
- ‘(2) In this section—

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***light rail franchise agreement land*** means land on which is situated a light rail or light rail transport infrastructure to which a light rail franchise agreement applies.

### **‘377H Guarantees and undertakings**

‘For giving guarantees or undertakings to a franchisee, the *Statutory Bodies Financial Arrangements Act 1982* sections 14, 16, 18, 19 and 20 and part 3, division 3 apply, with all necessary changes and any changes prescribed under a regulation, to the franchisee as if the franchisee were a statutory body within the meaning of that Act.

*Editor’s note—*

*Statutory Bodies Financial Arrangements Act 1982*, sections 14 (Conditions precedent to financial arrangements and other matters), 16 (Guarantees for the State), 18 (Requirement for security), 19 (Guarantee may include waiver of immunity and other provisions) and 20 (Guarantee not affected by transfer under guarantee) and part 3, division 3 (Consequences if payment required under guarantee)

## **‘Subdivision 3 Interface management**

### **‘377I Purpose of sdiv 3**

‘The purpose of this subdivision is to provide for a regime for dealing with light rail interface issues in light rail interface management areas.

### **‘377J Definitions for sdiv 3**

‘In this subdivision—

***light rail interface*** means an interface between—

- (a) 1 or more of the following—
  - (i) light rail;
  - (ii) light rail land;

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- (iii) light rail transport infrastructure;
- (iv) light rail transport infrastructure works; and
- (b) either or both of the following—
  - (i) a thing (including a building, another structure or road) that is in the immediate vicinity of, or otherwise affects or is affected by, a thing mentioned in paragraph (a);
  - (ii) a place (including a building, another structure or road) at, on or in which an activity that affects or is affected by a thing mentioned in paragraph (a) is carried out.

***light rail interface agreement*** see section 377K.

***light rail interface issue*** means an issue that arises because of a light rail interface.

*Examples of issues that may be light rail interface issues—*

- access to a thing located partly on land owned or occupied by someone else
- access to a thing that can only be accessed for a particular purpose (for example, maintenance) by entering land owned or occupied by someone else
- shared responsibility for safety and maintenance of shared facilities
- disruption of, or delays in, carrying out activities at a place caused by the presence of a thing, or carrying out of activities, at an adjacent or nearby place

***light rail interface management area*** means land or part of land declared as a light rail interface management area under section 377L.

***light rail land*** includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which light rail transport infrastructure is situated.



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**‘377K Meaning and scope of *light rail interface agreement***

- ‘(1) A *light rail interface agreement* is an agreement that provides for the following—
- (a) identifying light rail interface issues for the light rail interface covered by the agreement;
  - (b) measures for managing the identified light rail interface issues, and implementing the measures;
  - (c) the evaluation, testing and, if necessary, revision of the measures mentioned in paragraph (b);
  - (d) the roles and responsibilities of each party to the agreement in relation to the measures mentioned in paragraph (b);
  - (e) the procedures by which each party will monitor compliance with the obligations under the agreement;
  - (f) a process for keeping the agreement under review and how any review will be conducted and implemented;
  - (g) enforcing rights or obligations under the agreement, including, for example, a dispute resolution process.
- ‘(2) A light rail interface agreement—
- (a) may provide for a matter by applying, adopting or incorporating a matter contained in another document (with or without modification); and
  - (b) may consist of 2 or more documents.
- ‘(3) A light rail interface agreement must be consistent with—
- (a) the objectives of this Act mentioned in section 2; and
  - (b) the objectives of other transport laws.

**‘377L Declaration of light rail interface management area**

- ‘(1) The chief executive may, by gazette notice, declare land or part of land to be a light rail interface management area if—
- (a) there is a light rail interface on the land or part; and

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- (b) the chief executive reasonably believes—
  - (i) the light rail interface creates or is likely to create light rail interface issues; and
  - (ii) light rail interface arrangements should be in place to deal with the light rail interface issues or potential light rail interface issues.
- ‘(2) Before making the declaration, the chief executive must—
  - (a) give the persons the chief executive considers may be affected by the declaration written notice of the chief executive’s proposal to make the declaration; and

*Examples of persons who may be affected by the declaration—*  
a person who owns, manages, controls or is otherwise responsible for a thing or place in relation to which the light rail interface issues or potential light rail interface issues exist
  - (b) give the persons a reasonable opportunity to make submissions to the chief executive in relation to the proposed declaration; and
  - (c) have regard to any submissions made by the persons.
- ‘(3) Land declared to be a light rail interface management area must be—
  - (a) identified specifically in the gazette notice; or
  - (b) 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.
- ‘(4) The identification of land declared to be a light rail interface management area may, but need not, be by reference to strata occupied by the land.
- ‘(5) In this section—

***light rail interface arrangements*** means—

  - (a) light rail interface agreements; or
  - (b) arrangements under section 377O.

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### **‘377M Particular persons may enter into light rail interface agreement**

- ‘(1) This section applies if—
- (a) there is a light rail interface; and
  - (b) a person (*first person*) owns, manages, controls or is otherwise responsible for light rail, light rail land, light rail transport infrastructure or light rail transport infrastructure works the subject of the light rail interface; and

*Examples of persons for paragraph (b)—*

light rail manager, light rail operator, the chief executive

- (c) another person (*second person*) owns, manages, controls or is otherwise responsible for a relevant thing or place the subject of the light rail interface; and

*Examples of persons for paragraph (c)—*

owner or occupier, a local government, chief executive, public utility plant provider

- (d) the light rail interface is in a light rail interface management area.

- ‘(2) The first person and second person may enter into a light rail interface agreement for the light rail interface.

- ‘(3) In this section—

*relevant thing or place* means a thing or place mentioned in section 377J, definition *light rail interface*, paragraph (b)(i) or (ii).

### **‘377N Failure to enter into light rail interface agreement**

- ‘(1) This section applies if the chief executive is satisfied—
- (a) that, under section 377M, a person is seeking to enter into a light rail interface agreement with another person and the agreement has not been entered into because the other person—

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- (i) is unreasonably refusing or failing to enter into a light rail interface agreement with the person; or
    - (ii) is unreasonably delaying the negotiation of a light rail interface agreement with the person; or
  - (b) that—
    - (i) section 377M applies in relation to persons for a light rail interface in a light rail management area; and
    - (ii) the persons have not made a reasonable attempt to enter into a light rail interface agreement for the interface.
- ‘(2) The chief executive may be satisfied for subsection (1)(b) only if it has been at least 60 days after the declaration of the light rail interface management area mentioned in the subsection.
- ‘(3) The chief executive may give the persons mentioned in subsection (1)(a) or (b) a written notice (a *preliminary notice*) that—
- (a) states the chief executive’s powers under this division, including that the chief executive may give a direction under section 377O at any time after a stated date that is at least 28 days after the preliminary notice is given; and
  - (b) includes copies of this section and section 377O; and
  - (c) identifies the light rail interface issues that the chief executive reasonably considers should be dealt with by a light rail interface agreement between the persons.
- ‘(4) The preliminary notice may contain suggested terms for inclusion in a light rail interface agreement to deal with the light rail interface issues mentioned in subsection (3)(c).
- ‘(5) The chief executive may, by written notice, ask a person to whom a preliminary notice was given for information the chief executive reasonably requires for giving a direction under section 377O.

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- ‘(6) A person to whom a written notice is given under subsection (5) must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty for subsection (6)—60 penalty units.

### **‘377O Direction about arrangement that is to apply**

- ‘(1) This section applies if—
- (a) the chief executive gives a preliminary notice under section 377N to persons; and
  - (b) the persons have not entered into a light rail interface agreement to deal with the light rail interface issues identified in the preliminary notice by the date stated in the preliminary notice.
- ‘(2) The chief executive may—
- (a) decide the arrangements that are to apply in relation to the light rail interface issues identified in the preliminary notice; and
  - (b) direct the persons to implement the arrangements by a stated date.
- ‘(3) A direction under subsection (2)(b) may be given at any time after a day that is at least 28 days after the preliminary notice is given.
- ‘(4) A direction given under subsection (2)(b) must be written and state the following—
- (a) the arrangements decided by the chief executive that are to apply in relation to the light rail interface issues identified in the preliminary notice;
  - (b) the date by which the arrangements must be implemented.

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- ‘(5) A person to whom a direction is given under subsection (2)(b) must comply with the direction, unless the person has a reasonable excuse.

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

### **‘377P Guidelines about light rail interfaces etc.**

- ‘(1) The chief executive may make guidelines about the following—
- (a) how persons may identify light rail interface issues that may affect them;
  - (b) measures that may be implemented to deal with particular light rail interface issues;
  - (c) standard terms that may be included in light rail interface agreements.
- ‘(2) The chief executive must—
- (a) publish the guidelines, and the provisions of any document applied, adopted or incorporated by the guidelines, on the department’s website; and
  - (b) make copies of the guidelines, and the provisions of any document applied, adopted or incorporated by the guidelines, available for inspection, without charge, during normal business hours, at the places the chief executive considers appropriate.

## **‘Subdivision 4 Miscellaneous**

### **‘377Q Severance of light rail transport infrastructure**

- ‘(1) The chief executive may decide to sever light rail transport infrastructure from light rail land on which it is situated.
- ‘(2) If the chief executive makes a decision under subsection (1), the severed infrastructure is taken to be, and must be dealt with as, personal property separate from the land.

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- ‘(3) A decision under subsection (1) takes effect on the day stated in a notice given, for the purposes of this subsection, by the chief executive to—
- (a) the owner of the light rail transport infrastructure; and
  - (b) each other person the chief executive knows, or ought reasonably to know, has an interest in the light rail transport infrastructure.
- ‘(4) The severance of light rail transport infrastructure from land under this section—
- (a) does not affect the right of the infrastructure to be situated on the land; and
  - (b) does not affect a person’s rights or obligations under a light rail franchise agreement relating to the infrastructure, other than to the extent stated in the agreement; and
  - (c) does not affect any right to drain water or sewage from the infrastructure across and through the land or to use any means of drainage of water or sewage from the facility across and through the land.
- ‘(5) In this section—
- light rail land* includes land—
- (a) held by the chief executive on behalf of the State; and
  - (b) on which light rail transport infrastructure is situated.
- light rail transport infrastructure* includes any part of light rail transport infrastructure.

**‘377R Limited compensation for easements etc. or damage relating to overhead wiring for a light rail**

- ‘(1) This section applies in relation to the following—
- (a) a light rail overhead wiring easement;
  - (b) light rail overhead wiring damage.

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- ‘(2) Despite anything to the contrary in the *Acquisition of Land Act 1967* or a provision of this chapter, compensation is not payable for—
- (a) the taking of a light rail overhead wiring easement that is an easement or other interest in land relating to a road; or
  - (b) light rail overhead wiring damage that occurs on or in relation to a road.
- ‘(3) Also, despite anything to the contrary in the *Acquisition of Land Act 1967* or a provision of this chapter, compensation is payable for the following only in accordance with subsections (4) to (8)—
- (a) the taking of a light rail overhead wiring easement that is not an easement or other interest in land relating to a road (***compensable taking of overhead wiring easement***);
  - (b) light rail overhead wiring damage that occurs other than on or in relation to a road (***compensable overhead wiring damage***).
- ‘(4) A relevant person may apply in writing to the chief executive for compensation for—
- (a) compensable taking of overhead wiring easement; or
  - (b) compensable overhead wiring damage.
- ‘(5) An application under subsection (4) must be made—
- (a) within 1 year after—
    - (i) for compensable taking of overhead wiring easement—the day of the taking; or
    - (ii) for compensable overhead wiring damage—the day the damage occurs; or
  - (b) within a longer period allowed by the chief executive.
- ‘(6) If, within 60 days after a relevant person applies for compensation under subsection (5), or a longer period agreed



---

between the person and the chief executive, no agreement has been reached between the person and the chief executive about 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.

‘(7) The Land Court has jurisdiction to deal with an application made to it under subsection (6), including jurisdiction to require the chief executive to pay the person compensation decided by the court.

‘(8) Compensation paid under this section for compensable overhead wiring damage caused to land must not be more than the compensation that would have been awarded if the land had been taken by the chief executive under the *Transport Planning and Coordination Act 1994*, part 4.

‘(9) In this section—

***light rail overhead wiring damage*** means damage caused by the construction of overhead wiring for a light rail.

***light rail overhead wiring easement*** means an easement or other interest in land taken by the chief executive under the *Transport Planning and Coordination Act 1994*, part 4, for the construction, maintenance or operation of overhead wiring for a light rail.

***relevant person*** means—

- (a) for compensable taking of overhead wiring easement—the person who holds an interest in the land affected by the easement or other interest in the land; or
- (b) for compensable overhead wiring damage—a person affected by the damage.

***road*** means road within the meaning of section 352.’

[s 179]

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**179 Amendment of s 477A (Power to deal with particular land)**

- (1) Section 477A(1), ‘rail land’—

*omit, insert—*

‘prescribed land’.

- (2) Section 477A(2)—

*insert—*

‘*prescribed land* means—

- (a) busway land; or
- (b) light rail land; or
- (c) rail land.’.

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

- (1) Schedule 1, items 12 and 13—

*insert—*

‘(d) busway land or light rail land’.

- (2) Schedule 1, item 14—

*omit, insert—*

- ‘14 the removal and disposal of vehicles or property that are abandoned on—

- (a) a railway; or
- (b) a busway, busway land, or busway transport infrastructure; or
- (c) a light rail, light rail land, or light rail transport infrastructure’.

- (3) Schedule 1, item 15(a)—

*omit, insert—*

‘(a) on a busway, busway land, or busway transport infrastructure, against the directions of—

- 
- (i) the busway manager for the busway, the person in control of the busway land, or the busway manager for which the busway transport infrastructure is used; or
    - (ii) the chief executive; or’.
  - (4) Schedule 1, item 15(c)—  
*omit, insert—*  
‘(c) on a light rail, light rail land, or light rail transport infrastructure, against the directions of—
    - (i) an accredited person for the light rail, the person in control of the light rail land, or an accredited person for the light rail for which the light rail transport infrastructure is used; or
    - (ii) the chief executive’.
  - (5) Schedule 1, item 24—  
*omit, insert—*  
‘24 protection of, and consequences of damage to, State-owned or State-controlled land or transport infrastructure, including a State-controlled road, a future State-controlled road, busway, busway land, light rail, light rail land, and ancillary works and encroachments on them’.
  - (6) Schedule 1—  
*insert—*  
‘26 matters relating to light rail interface issues’.

## **181 Amendment of sch 6 (Dictionary)**

- (1) Schedule 6, definition *franchisee*—  
*omit.*
- (2) Schedule 6—  
*insert—*

[s 181]

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*‘franchisee* means—

- (a) for a road franchise agreement—a person with whom the Minister has entered into the agreement; or
- (b) for a light rail franchise agreement—a person with whom the Minister has entered into the agreement.

*interfere with*, light rail transport infrastructure, for chapter 10, part 4, division 2, see section 361A.

*light rail franchise agreement* see section 377B.

*light rail interface*, for chapter 10, part 4, division 4A, subdivision 3, see section 377J.

*light rail interface agreement*, for chapter 10, part 4, division 4A, subdivision 3, see section 377K.

*light rail interface issue* see section 377J.

*light rail interface management area*, for chapter 10, part 4, division 4A, subdivision 3, see section 377J.

*overhead wiring* means an overhead electrical power supply system and associated support structures and safety signs.

*Example of overhead electrical power supply system—*

a catenary

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

- (3) Schedule 6, definition *light rail*, paragraph (a)—

*omit, insert—*

- ‘(a) a route wholly or partly dedicated to the priority movement of light rail vehicles for passenger transport purposes, whether or not the route was designed and constructed for those purposes as well as other purposes; and’.

- (4) Schedule 6, definition *light rail land*, paragraph (b)—

*omit, insert—*

- ‘(b) for chapter 10, part 4, division 4A, see section 377J;

- (c) for chapter 10, part 4, division 5, see section 378.’.
- (5) Schedule 6, definition *light rail transport infrastructure*, paragraph (c)(iii), 11th dot point, from ‘electrical’—  
*omit, insert—*  
‘wiring’.

## Chapter 4 Other amendments

### Part 1 Amendment of Adult Proof of Age Card Act 2008

#### 182 Act amended

This part amends the *Adult Proof of Age Card Act 2008*.

#### 183 Amendment of s 10 (Request for further information or documents)

Section 10(1), ‘require’—

*omit, insert—*

‘request’.

#### 184 Omission of s 35 (Storing emergency contact information electronically on an adult proof of age card)

Section 35—

*omit.*

[s 185]

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**185 Amendment of s 36 (Restricted access to information electronically stored on card)**

- (1) Section 36(2), after ‘access’—

*insert—*

‘any’.

- (2) Section 36(2), after penalty—

*insert—*

‘*Note—*

See the *Transport Planning and Coordination Act 1994*, section 36H for the storing of emergency contact information.’.

**186 Amendment of schedule (Dictionary)**

Schedule, definition *emergency contact information*—

*relocate* to section 36(3).

## **Part 2 Amendment of Maritime Safety Queensland Act 2002**

**187 Act amended**

This part amends the *Maritime Safety Queensland Act 2002*.

**188 Amendment of s 8 (Functions and powers of MSQ)**

- (1) Section 8(1)(a)(i), from ‘, including’ to ‘Act’—

*omit.*

- (2) Section 8(1)(c) and (d)—

*renumber* as section 8(1)(d) and (e).

- (3) Section 8(1)—

*insert—*

‘(c) for the *Transport Infrastructure Act 1994*—to manage public marine facilities and the use of waterways;’.

## **189 Insertion of new ss 12A and 12B**

Part 2, division 3—

*insert—*

### **‘12A Preservation of rights of particular public service officers**

‘(1) This section applies if—

- (a) a person is employed under section 12, other than as a marine pilot; and
- (b) the person was a public service officer immediately before being employed under section 12.

‘(2) The person keeps all rights and entitlements accrued or accruing to the person as a public service officer as if service as an employee under section 12 were a continuation of service as a public service officer.

*Examples of rights and entitlements—*

long service, recreation and sick leave and rights as a member of a superannuation scheme

### **‘12B Tenure as public service officer on ending of particular employment contracts**

‘(1) This section applies if—

- (a) a person is employed on contract under section 12, other than as a marine pilot; and
- (b) the contract—
  - (i) is terminated other than by disciplinary action; or
  - (ii) expires and is not renewed or replaced by another contract of employment under section 12; and





*insert—*

- ‘(5) An approval under subsection (1) for road works that are road access works may only be given if there is a permitted road access location under a decision in force under section 62(1) in relation to the road access works.’

### **193 Insertion of new s 49A**

Chapter 6, part 5, division 1—

*insert—*

#### **‘49A Impact of particular development and State-controlled roads**

- ‘(1) This section applies if the chief executive is an assessment manager or a referral agency for a development application made after the commencement of this section.
- ‘(2) Also, this section has as its purpose ensuring—
- (a) the efficient and safe management of State-controlled roads; and
  - (b) that development addresses impacts on the development from environmental emissions generated by State-controlled roads.

*Examples of environmental emissions—*

air particles, fumes, light, noise

- ‘(3) 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 purpose mentioned in subsection (2).
- ‘(4) Subsection (3) is in addition to, and does not limit, the Planning Act, section 282 and chapter 6, part 5, division 2.’

### **194 Amendment of s 50 (Ancillary works and encroachments)**

- (1) Section 50(6)—

*omit.*

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- (2) Section 50(7)—  
*renumber* as section 50(6).

**195 Amendment of s 52 (Alteration etc. of ancillary works and encroachments)**

- (1) Section 52(5)—  
*omit*.
- (2) Section 52(6) and (7)—  
*renumber* as section 52(5) and (6).

**196 Amendment of s 67 (Notice of decision under s 62(1))**

Section 67—

*insert*—

- ‘(1A) However, subsection (1) does not apply if the decision was made in conjunction with a development approval.’.

**197 Amendment of s 70 (Offences about road access locations and road access works, relating to decisions under s 62(1))**

Section 70(1)—

*omit, insert*—

- ‘(1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.’.

**198 Amendment of s 84A (Declaration of land as State toll road corridor land)**

- (1) Section 84A(1)(a)—  
*omit, insert*—

- 
- ‘(a) non-freehold land (including a road or reserve, or part of a road or reserve, under the *Land Act 1994*) on or within which road transport infrastructure or rail transport infrastructure is situated;’.
- (2) Section 84A—  
*insert—*
- ‘(4) The Minister must, in a declaration under subsection (1), declare the terms for section 84C(5)(d) that are to apply to the lease of the land to the State under section 84C(4)(a).
- ‘(5) The terms mentioned in subsection (4) must—
- (a) have been agreed to by the Minister administering the *Land Act 1994*; and
- (b) be consistent with section 84C(5)(a) to (c).
- ‘(6) The Minister may, in a declaration under subsection (1), declare that a stated interest in land declared to be State toll road corridor land continues in relation to—
- (a) the lease of the land to the State under section 84C(4)(a); or
- (b) a lease of the land by the State to another person under section 84C(6).
- ‘(7) In this section—  
*non-freehold land* means non-freehold land under the *Land Act 1994*.’.

**199 Amendment of s 84B (State toll road corridor land on rail corridor land)**

- (1) Section 84B(1)—  
*omit, insert—*
- ‘(1) This section applies if—
- (a) the Minister intends to declare land to be State toll road corridor land under section 84A; and

[s 199]

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- (b) a level crossing is situated partly on the land and partly on rail corridor land.’.
- (2) Section 84B(3)—  
*omit, insert—*
- ‘(3) If the Minister decides to declare the land to be State toll road corridor land, the declaration must also declare the part of the rail corridor land on which the level crossing is partly situated to be a common area (the **common area**) for the rail corridor land and the State toll road corridor land.’.
- (3) Section 84B(4)(a), after ‘a toll road’—  
*insert—*  
‘, and transport infrastructure relating to a toll road.’.
- (4) Section 84B(4)(a), examples—  
*omit, insert—*  
*‘Examples for paragraph (a)—*  
  - filling in a pothole on a toll road
  - erecting a sign about safety matters on a toll road’.
- (5) Section 84B(5)(a), after ‘toll road’—  
*insert—*  
‘, and transport infrastructure relating to a toll road.’.
- (6) Section 84B(7)(c), ‘it is crossed by the road’—  
*omit, insert—*  
‘the level crossing is situated’.
- (7) Section 84B(8)—  
*insert—*  
**‘level crossing** means a level crossing and its associated infrastructure.’.
- (8) Section 84B(8), definition *relevant person*, ‘leased—’—

*omit, insert—*

‘leased under section 84C(6)—’.

**200 Amendment of s 84C (Effect on land of State toll road corridor land declaration)**

(1) Section 84C(1)—

*omit, insert—*

‘(1) If a road or reserve, or part of a road or reserve, under the *Land Act 1994* is declared under section 84A to be State toll road corridor land, the road or reserve, or the part—

(a) stops being a road or reserve under that Act; and

(b) becomes unallocated State land.’.

(2) Section 84C—

*insert—*

‘(3A) If, immediately before the declaration of land as State toll road corridor land, public utility plant was located on the land, the declaration does not affect the ownership of the public utility plant.

‘(3B) Subject to subsection (3A), land that becomes unallocated State land under subsection (1), (2) or (3) is free of any interest or obligation other than the interests in the land, if any, continued under section 84A(6).’.

(3) Section 84C(4) and (5)—

*omit, insert—*

‘(4) The Minister administering the *Land Act 1994*—

(a) is taken to have leased the State toll road corridor land to the State under the *Land Act 1994*, section 17(2) when the declaration is made; and

(b) must lodge a document evidencing the lease in the leasehold land register.

‘(5) The lease is—

[s 201]

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- (a) in perpetuity; and
  - (b) if demanded, for a rent of \$1 a year; and
  - (c) subject to the interests in the State toll road corridor land, if any, continued in relation to the lease under section 84A(6)(a); and
  - (d) on the terms stated in the declaration of the State toll road corridor land under section 84A(4).’.
- (4) Section 84C(8), from ‘are’—  
*omit, insert—*  
‘are—
- (a) to be decided by the Minister; and
  - (b) subject to the interests in the State toll road corridor land, if any, continued in relation to the lease under section 84A(6)(b).’.
- (5) Section 84C—  
*insert—*
- ‘(10) If an interest that is a registered interest is continued under section 84A(6), the registrar of titles must record the interest in the leasehold land register against the lease in relation to which it is continued.
- ‘(11) In this section—  
***registered interest*** means—
- (a) an interest recorded in a register kept under the *Land Act 1994*, section 276; or
  - (b) a registered interest under the *Land Title Act 1994*.’.

## 201 Insertion of new s 84D

After section 84C—

*insert—*

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## **‘84D Compensation**

- ‘(1) Subsection (3) applies to a person who has an interest in land declared to be State toll road corridor land under section 84A.
- ‘(2) However, subsection (3) does not apply if the interest—
  - (a) is continued under section 84A(6); or
  - (b) is an interest under a services contract for the land.
- ‘(3) The person has a right to claim compensation under the *Acquisition of Land Act 1967*, section 12(5A) and (5B) and part 4 as if the interest were land taken by the State under that Act.
- ‘(4) For applying the *Acquisition of Land Act 1967* under subsection (3)—
  - (a) the State is the constructing authority; and
  - (b) for section 24(2A) of that Act, a claimant refers a claim for compensation to the Land Court by filing in the office of the registrar of the court copies of the claim given by the claimant to the State and the gazette notice for the declaration; and
  - (c) the reference in section 24(5) of that Act to the date of the gazette containing the gazette resumption notice taking the land is taken to be a reference to the date of the gazette containing the gazette notice for the declaration.
- ‘(5) Other than as stated in this section, a person has no right to compensation for the declaration of land as State toll road corridor land under section 84A.’.

## **202 Amendment of s 105H (Declaration of land as local government tollway corridor land)**

Section 105H—

*insert—*

[s 203]

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- ‘(7) The Minister must, in a declaration under subsection (2) or (3), declare the terms for section 105J(5)(d) that are to apply to the lease of the land to the State under section 105J(4)(a).
- ‘(8) The terms mentioned in subsection (7) must—
  - (a) have been agreed to by the Minister administering the *Land Act 1994*; and
  - (b) be consistent with section 105J(5)(a) to (c).
- ‘(9) The Minister may, in a declaration under subsection (2) or (3), declare that a stated interest in land declared to be local government tollway corridor land continues in relation to—
  - (a) the lease of the land to the State under section 105J(4)(a); or
  - (b) the lease of the land to a local government under section 105J(6).’.

**203 Amendment of s 105J (Effect on land of local government tollway corridor land declaration)**

- (1) Section 105J—  
*insert—*
- ‘(3A) Subject to section 105M, land that becomes unallocated State land under subsection (1), (2) or (3) is free of any interest or obligation other than the interests in the land, if any, continued under section 105H(9).’.
- (2) Section 105J(4) and (5)—  
*omit, insert—*
- ‘(4) The Minister administering the *Land Act 1994*—
  - (a) is taken to have leased the local government tollway corridor land to the State under the *Land Act 1994*, section 17(2) when the declaration is made; and
  - (b) must lodge a document evidencing the lease in the leasehold land register.



- 
- ‘(5) The lease is—
- (a) in perpetuity; and
  - (b) if demanded, for a rent of \$1 a year; and
  - (c) subject to the interests in the local government tollway corridor land, if any, continued in relation to the lease under section 105H(9)(a); and
  - (d) on the terms stated in the declaration of the local government tollway corridor land under section 105H(7).’.
- (3) Section 105J(8), from ‘are’—  
*omit, insert—*  
‘are—
- (a) to be decided by the Minister; and
  - (b) subject to the interests in the land, if any, continued in relation to the lease under section 105H(9)(b).’.
- (4) Section 105J—  
*insert—*
- ‘(13) If an interest that is a registered interest is continued under section 105H(9), the registrar of titles must record the interest in the leasehold land register against the lease in relation to which it is continued.
- ‘(14) In this section—  
*registered interest* means—
- (a) an interest recorded in a register kept under the *Land Act 1994*, section 276; or
  - (b) a registered interest under the *Land Title Act 1994*.’.

## 204 Insertion of new s 105JA

After section 105J—

*insert—*

[s 205]

---

### **‘105JA Compensation**

- ‘(1) Subsection (3) applies to a person who has an interest in land declared to be local government tollway corridor land under section 105H.
- ‘(2) However, subsection (3) does not apply if the interest—
  - (a) is continued under section 105H(9); or
  - (b) is an interest under a services contract for the land.
- ‘(3) The person has a right to claim compensation under the *Acquisition of Land Act 1967*, section 12(5A) and (5B) and part 4 as if the interest were land taken by the State under that Act.
- ‘(4) For applying the *Acquisition of Land Act 1967* under subsection (3)—
  - (a) the State is the constructing authority; and
  - (b) for section 24(2A) of that Act, a claimant refers a claim for compensation to the Land Court by filing in the office of the registrar of the court copies of the claim given by the claimant to the State and the gazette notice for the declaration; and
  - (c) the reference in section 24(5) of that Act to the date of the gazette containing the gazette resumption notice taking the land is taken to be a reference to the date of the gazette containing the gazette notice for the declaration.
- ‘(5) Other than as stated in this section, a person has no right to compensation for the declaration of land as local government tollway corridor land under section 105H.’.

### **205 Amendment of s 316 (Definition for div 4)**

Section 316, definition *busway land*—

*omit, insert—*

‘*busway land* includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which busway transport infrastructure is, or is proposed to be, situated.

*Note—*

Information about projects and initiatives involving busway land is available on the department's website at <[www.tmr.qld.gov.au](http://www.tmr.qld.gov.au)>.

**206 Amendment of s 317 (Retention of ownership of public utility plant)**

Section 317(1), after 'busway land'—

*insert—*

'under section 302,'.

**207 Amendment of s 364 (Definitions for div 3)**

(1) Section 364, definitions *busway land* and *light rail land*—  
*omit.*

(2) Section 364—

*insert—*

'*light rail land* includes land—

- (a) held by the chief executive on behalf of the State; and
- (b) on which light rail transport infrastructure is, or is proposed to be, situated.

*Note—*

Information about projects and initiatives involving light rail land is available on the department's website at <[www.tmr.qld.gov.au](http://www.tmr.qld.gov.au)>.

**208 Amendment of s 365 (Retention of ownership of public utility plant)**

Section 365(1), after 'rail land'—

[s 209]

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*insert—*

‘under section 353.’.

**209 Amendment of s 368 (Public utility provider to consult with chief executive before replacing public utility plant)**

Section 368, heading, ‘chief executive’—

*omit, insert—*

‘light rail authority’.

**210 Amendment of s 371 (Information by public utility provider to chief executive)**

Section 371, heading, ‘chief executive’—

*omit, insert—*

‘light rail authority’.

**211 Insertion of new ss 476B–476D**

After section 476A—

*insert—*

**‘476B Power to require works to stop**

‘(1) A person must not, without the chief executive’s written approval, carry out works on land if the works threaten, or are likely to threaten, the safety or operational integrity of transport infrastructure.

Maximum penalty—100 penalty units.

‘(2) If—

- (a) a person is carrying out, or proposes to carry out, works on land; and
- (b) the chief executive reasonably believes the works threaten, or are likely to threaten, the safety or operational integrity of transport infrastructure;

---

the chief executive may give the person a written direction to stop, alter or not to start the works.

- ‘(3) The person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- ‘(4) If works are carried out contrary to subsection (1) or a direction under subsection (2), the chief executive may, by written notice, require the owner of the land where the works are situated to alter, demolish or take away the works within a stated reasonable time.

- ‘(5) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units.

- ‘(6) If the person does not comply with the requirement, the chief executive may—

- (a) alter, demolish or take away the works; or
- (b) alter, demolish or take away the works and recover the cost of doing so from the land’s owner as a debt payable by the owner.

- ‘(7) For this section, a person authorised by the chief executive may enter land and inspect works—

- (a) after giving 3 days written notice to the land’s owner or occupier; or
- (b) with the written agreement of the land’s owner or occupier; or
- (c) without notice or approval, if the chief executive reasonably believes there is an immediate and significant threat to the safety or operational integrity of the transport infrastructure.

- ‘(8) This section binds all persons, including the State, the Commonwealth and the other States.

- ‘(9) In this section—

[s 211]

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*transport infrastructure* does not include rail transport infrastructure.

### **‘476C Compensation**

- ‘(1) This section applies if a person enters land under section 476B(7).
- ‘(2) An owner or occupier of the land may, by written notice given to the chief executive—
  - (a) claim compensation for loss or damage caused by the entry on the land; or
  - (b) claim compensation for the taking or use of materials; or
  - (c) require the chief executive to carry out works in restitution for the damage; or
  - (d) require the chief executive to carry out works in restitution for the damage and then claim compensation for any loss or damage not restituted.
- ‘(3) The notice must be given—
  - (a) within 1 year after the entry ends; or
  - (b) at a later time allowed by the chief executive.
- ‘(4) The amount of compensation is—
  - (a) the amount agreed between the parties; or
  - (b) if the parties can not agree within a reasonable time—the amount decided by a court with jurisdiction for the recovery of the amount of compensation claimed.
- ‘(5) However, the amount of compensation for damage to the land and its fixtures, and for taking or use of materials, can not be more than the amount that would have been awarded if the land had been acquired.

---

**‘476D Registration of notice about nature of works**

- ‘(1) This section applies if the chief executive reasonably believes works of a particular nature that may be conducted on land are likely to threaten the safety or operational integrity of transport infrastructure.
- ‘(2) The chief executive may give the registrar of titles a signed notice—
  - (a) identifying the land; and
  - (b) identifying the nature of works that may be conducted on the land the chief executive reasonably believes is likely to threaten the safety or operational integrity of transport infrastructure; and
  - (c) stating that the owner of the land must obtain the chief executive’s written approval under section 168 or 476B before conducting works of that nature on the land.
- ‘(3) The registrar of titles must ensure a notice appears in the relevant register kept under the *Land Act 1994* or the *Land Title Act 1994* so that a search of the register will show that an owner of the land must obtain the chief executive’s written approval under section 168 or 476B before conducting works of the nature identified in the notice on the land.
- ‘(4) No fee is payable for registration of the notice.’.

**212 Insertion of new ch 18, pt 14**

Chapter 18—

*insert—*

## **‘Part 14                      Transitional provisions for Transport and Other Legislation Amendment Act (No. 2) 2010**

### **‘556    Existing applications for approval for road access works**

- ‘(1) This section applies if an application for approval for road access works is made under section 33 or 50 (the *relevant section*) before the commencement of this section but is not decided before the commencement.
- ‘(2) The chief executive must decide, or continue to decide, the application under the relevant section as if this Act had not been amended by the *Transport and Other Legislation Amendment Act (No. 2) 2010*.

### **‘557    Particular applications for approval for road access works**

- ‘(1) This section applies to an application for the chief executive’s approval for the construction, maintenance, operation or conduct of road access works on a State-controlled road that is made—
  - (a) after the commencement of this section; and
  - (b) purportedly under section 50.
- ‘(2) The application is taken to have been made, and must be dealt with, under section 33.

### **‘558    Effect of change in definition *rail transport infrastructure* on development applications**

- ‘(1) This section applies to a prescribed development application made—



- (a) before, and not finally dealt with at, the commencement;  
or
- (b) within 6 months after the commencement.
- ‘(2) The Act, as in force immediately before the commencement, applies to the development application as if schedule 6, definition *rail transport infrastructure* had not been amended.
- ‘(3) In this section—  
*commencement* means the commencement of this section.  
*prescribed development application* means a development application for which the chief executive is an assessment manager or a referral agency.’.

### 213 Amendment of sch 3 (Reviews and appeals)

Schedule 3—

*insert—*

‘476B(2)	direction requiring works to stop, be altered or not started	QCAT
476B(4)	requirement to alter, demolish or take away works	QCAT
476B(6)	decision to alter, demolish or take away works	QCAT
476B(6)	decision about recovering cost of altering, demolishing or taking away works	QCAT
476D	decision to register notice about nature of works	QCAT’.

### 214 Amendment of sch 6 (Dictionary)

- (1) Schedule 6—

*insert—*

[s 214]

---

‘*services contract*, for land, means a contract merely for the provision of services on, to, or in relation to, the land, but does not include a contract for the provision of services under which a person has a right to reside on any part of the land.

*Example of a services contract—*

a contract for the provision of a mowing service’.

- (2) Schedule 6, definition *ancillary works and encroachments*, paragraph (a)(xiii)—

*omit.*

- (3) Schedule 6, definition *busway land*, paragraph 2(c)—

*omit.*

- (4) Schedule 6, definition *busway land*, paragraph 2(d)—

*renumber* as paragraph 2(c).

- (5) Schedule 6, definition *busway transport infrastructure*, paragraph (c)(ii)—

*insert—*

- monitoring and security systems
- positioning systems
- timetabling systems’.

- (6) Schedule 6, definition *busway transport infrastructure*, paragraph (c)(ii), after ‘ticketing equipment’—

*insert—*

‘and systems’.

- (7) Schedule 6, definition *light rail transport infrastructure*, paragraph (c)(iii)—

*insert—*

- monitoring and security systems
- positioning systems
- timetabling systems’.

- 
- (8) Schedule 6, definition *light rail transport infrastructure*, paragraph (c)(iii), after ‘ticketing equipment’—  
*insert—*  
‘and systems’.
- (9) Schedule 6, definition *rail transport infrastructure*—  
*insert—*  
(c) vehicle parking and set down facilities for intending passengers for a railway that are controlled or owned by a railway manager or the chief executive; and  
(d) pedestrian facilities, including footpath paving, for the railway that are controlled or owned by a railway manager or the chief executive;’.
- (10) Schedule 6, definition *road works*, paragraph (b)—  
*renumber* as paragraph (c).
- (11) Schedule 6, definition *road works*—  
*insert—*  
‘(b) road access works; or’.

## **Part 4**                      **Amendment of Transport Legislation Amendment Act 2007**

### **215 Act amended**

This part amends the *Transport Legislation Amendment Act 2007*.

### **216 Amendment of s 29 (Insertion of new ss 87B–87G)**

Section 29, inserted sections 87B to 87D—



**219 Amendment of s 15 (Insertion of new pt 5, divs 3A and 3B)**

- (1) Section 15, inserted section 63E—  
*omit.*
- (2) Section 15, inserted section 63F(2), after ‘access’—  
*insert—*  
‘any’.
- (3) Section 15, inserted section 63F(2), after penalty—  
*insert—*

‘Note—

See the *Transport Planning and Coordination Act 1994*, section 36H for the storing of emergency contact information.’

*Editor’s note—*

Subsections (1) to (3), legislation ultimately amended—

- *Transport Operations (Marine Safety) Act 1994*

**220 Amendment of s 17 (Amendment of schedule (Dictionary))**

Section 17, inserted definition *emergency contact information—*

*relocate* to section 15, inserted section 63F(3).

*Editor’s note—*

Legislation ultimately amended—

- *Transport Operations (Marine Safety) Act 1994*

**221 Amendment of s 28 (Insertion of new ch 5, pt 3A)**

- (1) Section 28, inserted section 91E—  
*omit.*
- (2) Section 28, inserted section 91F(2), after ‘access’—

[s 222]

---

*insert—*

‘any’.

(3) Section 28, inserted section 91F(2), after penalty—

*insert—*

‘*Note—*

See the *Transport Planning and Coordination Act 1994*, section 36H for the storing of emergency contact information.’.

*Editor’s note—*

Subsections (1) to (3), legislation ultimately amended—

- *Transport Operations (Road Use Management) Act 1995*

## **222 Amendment of s 31 (Amendment of sch 4 (Dictionary))**

Section 31, inserted definition *emergency contact information—*

*relocate* to section 28, inserted section 91F(3).

*Editor’s note—*

Legislation ultimately amended—

- *Transport Operations (Road Use Management) Act 1995*

# **Part 6 Amendment of Transport Operations (Marine Pollution) Act 1995**

## **223 Act amended**

This part amends the *Transport Operations (Marine Pollution) Act 1995*.

---

**224 Amendment of s 26 (Discharge of oil into coastal waters prohibited)**

Section 26(1), penalty—

*omit, insert—*

‘Maximum penalty—

- (a) for an individual—5000 penalty units; or
- (b) for a corporation—100000 penalty units.’.

**225 Amendment of s 27 (Oil residues)**

- (1) Section 27(1), after ‘commit an’—

*insert—*

‘offence’.

- (2) Section 27(1), penalty—

*omit, insert—*

‘Maximum penalty—

- (a) for an individual—5000 penalty units; or
- (b) for a corporation—100000 penalty units.’.

**226 Amendment of s 35 (Discharge of noxious liquid substances into coastal waters prohibited)**

Section 35(1), penalty—

*omit, insert—*

‘Maximum penalty—

- (a) for an individual—5000 penalty units; or
- (b) for a corporation—100000 penalty units.’.

[s 227]

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**227 Amendment of s 42 (Jettisoning of harmful substances into coastal waters prohibited)**

Section 42(1), penalty—

*omit, insert—*

‘Maximum penalty—

- (a) for an individual—5000 penalty units; or
- (b) for a corporation—100000 penalty units.’.

**228 Amendment of s 48A (Ship with fixed toilet operating in prescribed nil discharge waters to be able to hold or treat sewage)**

Section 48A(4), definition *fixed toilet*—

*omit.*

**229 Amendment of s 49 (Declared ship operating in prescribed nil discharge waters to be fitted with sewage holding device)**

Section 49(1), from ‘unless’ to ‘device’—

*omit, insert—*

‘unless—

- (a) the declared ship is fitted with a sewage holding device; and
- (b) each fixed toilet on the declared ship is connected to a sewage holding device.’.

**230 Insertion of new s 86A**

Part 12, division 3—

*insert—*



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**‘86A Power to give notice in relation to discharge or likely discharge of pollutant**

- ‘(1) This section applies if an authorised officer is satisfied on reasonable grounds that a ship has discharged, or is likely to discharge, pollutant into coastal waters.
- ‘(2) The authorised officer may—
- (a) by written notice given to the owner or master of the ship, require the owner or master—
    - (i) to take stated reasonable action within a stated reasonable time; and
    - (ii) not to operate the ship, other than in a way approved by the authorised officer, until the authorised officer is satisfied on reasonable grounds that the ship is not likely to discharge pollutant into coastal waters; or
  - (b) attach a notice to the ship requiring that the ship not be operated by any person, other than in a way approved by the authorised officer, until the authorised officer is satisfied on reasonable grounds that the ship is not likely to discharge pollutant into coastal waters.
- ‘(3) The authorised officer may make a requirement under subsection (2)(a) orally and confirm the requirement by written notice as soon as practicable.
- ‘(4) The owner or master of a ship to whom a notice is given under subsection (2)(a) must comply with the requirement stated in the notice unless the owner or master has a reasonable excuse.
- Maximum penalty—200 penalty units.
- ‘(5) A person must not contravene a requirement under subsection (2)(b) unless the person has a reasonable excuse.
- Maximum penalty—200 penalty units.
- ‘(6) A person does not contravene this Act in relation to a discharge or likely discharge of pollutant from the ship for which an authorised officer issued a notice under subsection

[s 231]

---

- (2) merely because the person complies with a requirement in the notice.
- ‘(7) For subsection (2)(b), if the authorised officer knows the identity of the owner or master of the ship, the authorised officer—
- (a) must give the owner or master of the ship a copy of the requirement as soon as practicable; and
  - (b) may, by written notice given to the owner or master of the ship, require the owner or master to take stated reasonable action within a stated reasonable time in relation to the ship.
- ‘(8) The owner or master of a ship to whom a notice is given under subsection (7)(b) must comply with the requirement stated in the notice unless the owner or master has a reasonable excuse.
- Maximum penalty—200 penalty units.
- ‘(9) If a requirement is given under subsection (2)(a)(i) or (7)(b), the authorised officer may, if requested by the owner or master of the ship, allow the ship to operate before the end of the stated reasonable time in the direction if—
- (a) the stated reasonable action in the direction has been taken; and
  - (b) the authorised officer is satisfied on reasonable grounds that the ship is not likely to discharge pollutant into coastal waters.’.

### **231 Amendment of s 104 (Failure to answer questions)**

- (1) Section 104, heading—

*omit, insert—*

### **‘104 Failure to give information’.**

- (2) Section 104(1)(a)—

*omit, insert—*

---

‘(a) an authorised officer requires a person to give information, including, for example, by answering a question under section 88(2); and’.

(3) Section 104(3), from ‘It’ to ‘question’—

*omit, insert—*

‘If the person is an individual, it is a reasonable excuse for the person not to comply with the requirement’.

(4) Section 104—

*insert—*

‘(3A) If the person is a corporation, it is not a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

‘(3B) If information is given under section 88(2) by a person who is a corporation, the information is not admissible in evidence against a representative of the person in a civil or criminal proceeding other than a proceeding against the representative—

(a) for an offence against this section; or

(b) in relation to the falsity of the information.’.

(5) Section 104(3A) to (4)—

*renumber* as section 104(4) to (6).

## **232 Amendment of s 113 (Detained ship must be released on giving security)**

Section 113(4)—

*insert—*

‘(d) a letter of undertaking.’.

## **233 Insertion of new pt 17, div 6**

Part 17—

[s 234]

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*insert—*

**‘Division 6                      Transitional provision for Transport  
and Other Legislation Amendment  
Act (No. 2) 2010**

**‘160      Application of s 49**

‘Despite the amendment of section 49(1) by the *Transport and Other Legislation Amendment Act (No. 2) 2010*, section 49 as in force before the commencement of this section continues to apply to a declared ship until the end of 30 June 2011.’.

**234      Amendment of schedule (Dictionary)**

(1) Schedule—

*insert—*

‘***fixed toilet***, on a ship, means a toilet fixed permanently on board the ship.’.

(2) Schedule, definition *declared ship*, after ‘part 7’—

*insert—*

‘and section 160’.

**Part 7                              Amendment of Transport  
Operations (Marine Safety) Act  
1994**

**235      Act amended**

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

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**236 Amendment of s 3 (Objectives of this Act)**

- (1) Section 3(5)—  
*omit.*
- (2) Section 3(4A)—  
*renumber* as section 3(5).

**237 Amendment of s 31 (What is a standard)**

Section 31(5), from ‘approved,’—  
*omit, insert*—  
‘approved.’.

**238 Amendment of s 45 (Standards)**

- (1) Section 45(3)—  
*renumber* as section 45(4).
- (2) Section 45(2)—  
*omit, insert*—
- ‘(2) A standard or an amendment of a standard is subordinate legislation.
- ‘(3) However, the *Statutory Instruments Act 1992*, part 5 does not apply to a standard or an amendment of a standard.

*Note*—

This division provides for a process instead of a regulatory impact statement.’.

**239 Amendment of s 47 (Notice of proposal to prepare draft standard)**

Section 47(5)—  
*omit.*

[s 240]

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**240 Amendment of s 48 (Preparation of draft standard)**

Section 48(1), from ‘any’ to ‘and’—

*omit.*

**241 Amendment of s 49 (Notice of draft standard)**

Section 49(4)—

*omit.*

**242 Amendment of s 50 (Making of standard)**

(1) Section 50(1)(a), ‘any advice given by the Marine Board and’—

*omit.*

(2) Section 50(1)(b), ‘advice and’—

*omit.*

(3) Section 50(2), from ‘(Notice’ to ‘and’—

*omit, insert—*

‘is required even if the general manager changes the draft standard after considering the’.

**243 Replacement of s 54 (Review of standards)**

Section 54—

*omit, insert—*

**‘54 Amendment of standards**

‘(1) This division applies to the amendment of a standard in the same way as it applies to the making of a standard with any necessary changes.

‘(2) However, sections 47 to 50 do not apply to the amendment of a standard if the general manager considers the proposed amendment—

- (a) is not likely to impose appreciable costs on the community or a part of the community; or
- (b) only provides for, or to the extent it only provides for, any matter mentioned in the *Statutory Instruments Act 1992*, section 46(1)(a), (b), (c), (e), (f), (g), (h) or (i).

#### **‘54A Application of Acts Interpretation Act 1954**

‘The *Acts Interpretation Act 1954*, section 24AA does not apply to the amendment or repeal of a standard under this division.’

#### **244 Omission of pt 10 (Marine board)**

Part 10—

*omit.*

#### **245 Amendment of s 172A (Other directions)**

(1) Section 172A(1)—

*insert—*

‘(c) a person operating a ship that—

- (i) is required by a regulation to be equipped with safety equipment for the waters in which the ship is being operated; and
- (ii) is not equipped with the safety equipment.’

(2) Section 172A—

*insert—*

‘(3A) If subsection (1)(c) applies, the inspector may, by written notice, require the master of the ship—

- (a) to take the ship to waters for which the ship has the required safety equipment (also *operating waters*) within the reasonable time stated in the notice; and

[s 246]

---

- (b) to not operate the ship for any purpose other than taking it to the operating waters.’.
- (3) Section 172A(4), (7) and (8), ‘or (3)’—  
*omit, insert—*  
‘, (3) or (3A)’.
- (4) Section 172A—  
*insert—*
- ‘(6A) If a master takes a ship to its operating waters as required under subsection (3A), the master does not contravene section 44 while operating the ship to take it to the waters.’.
- (5) Section 172A—  
*insert—*
- ‘(9) In this section—  
*safety equipment* see section 44(3).’.

**246 Amendment of s 203D (Decisions that can not be appealed against etc.)**

Section 203D(b), ‘the Marine Board or’—  
*omit.*

**Part 8 Amendment of Transport Operations (Passenger Transport) Act 1994**

**247 Act amended**

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



**248 Amendment of s 52 (Approval of basis for funding or other financial assistance by State)**

Section 52(3)(a)—

*omit, insert—*

- ‘(a) for each holder of a service contract, other than a service contract for the TransLink area, who received State funding or other financial assistance during the year to which the report relates—details of the funding or other financial assistance; and’.

**249 Amendment of s 87E (Record of prior booking—limousine service provided under special purpose limousine service licence)**

- (1) Section 87E, heading, from ‘—limousine’ to ‘licence’—

*omit.*

- (2) Section 87E(1)—

*omit.*

- (3) Section 87E(4)(a), ‘(2)(b)’—

*omit, insert—*

‘(1)(b)’.

- (4) Section 87E(2) to (4)—

*renumber* as section 87E(1) to (3).

**250 Amendment of s 87F (Operator to keep record of prior booking made for s 87E)**

- (1) Section 87F, heading, ‘made for s 87E’—

*omit.*

- (2) Section 87F(a)(i), ‘made for section 87E’—

*omit.*

[s 251]

---

**251 Amendment of s 87G (Driver to produce record of prior booking made for s 87E)**

- (1) Section 87G, heading, ‘made for s 87E’—  
*omit.*
- (2) Section 87G(1)(a), ‘for section 87E’—  
*omit.*

**252 Renumbering of ss 87E–87G**

Sections 87E to 87G—  
*renumber* as sections 87B to 87D.

**253 Amendment of s 92 (Making of standards)**

- (1) Section 92(3)—  
*renumber* as section 92(4).
- (2) Section 92(2)—  
*omit, insert—*
- ‘(2) A standard or an amendment of a standard is subordinate legislation.
- ‘(3) However, the *Statutory Instruments Act 1992*, part 5 does not apply to a standard or an amendment of a standard.

*Note—*

This chapter provides for a process instead of a regulatory impact statement.’.

**254 Replacement of s 99 (Review of standards)**

Section 99—  
*omit, insert—*

---

**‘99 Amendment of standards**

- ‘(1) This chapter applies to the amendment of a standard in the same way as it applies to the making of a standard with any necessary changes.
- ‘(2) Sections 93 to 96 do not apply to the amendment of a standard if the chief executive considers the proposed amendment—
- (a) is not likely to impose appreciable costs on the community or a part of the community; or
  - (b) only provides for, or to the extent it only provides for, a matter mentioned in the *Statutory Instruments Act 1992*, section 46(1)(a), (b), (c), (e), (f), (g), (h) or (i).

**‘99A Application of Acts Interpretation Act 1954**

‘The *Acts Interpretation Act 1954*, section 24AA does not apply to the amendment or repeal of a standard under this chapter.’.

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

Schedule 3—

*insert—*

‘***tourist service*** means a pre-booked public passenger service operated in accordance with a publicly available itinerary to—

- (a) for all services—a common scenic or tourist attraction; or
- (b) if the service is not wholly within a service contract area or route—a major sporting or cultural event.’.



- 
- ‘(2) The authorised officer may give the person a written notice (an *improvement notice*) requiring the person to remedy the contravention or likely contravention, or the matters or activities occasioning the contravention or likely contravention, before the date stated in the notice.
- ‘(3) The date stated in the notice must be at least 7 days after the person is given the notice.
- ‘(4) However, the authorised officer may state an earlier date if satisfied it is reasonably practicable for the person to comply with the notice before the earlier date.
- ‘(5) The improvement notice must state each of the following—
- (a) that the authorised officer reasonably believes a person has contravened, is contravening or is likely to contravene a provision of this Act relating to the operation of a heavy vehicle;
  - (b) the reasons for the belief;
  - (c) the provisions of this Act in relation to which the belief is held;
  - (d) the prescribed review information for the decision;
  - (e) that the notice is given under this section.
- ‘(6) The improvement notice may state the way the alleged contravention or likely contravention, or the matters or activities occasioning the alleged contravention or likely contravention, are to be remedied.

### ‘39R Contravention of improvement notice

- ‘(1) A person who is subject to an improvement notice must not engage in conduct that results in a contravention of a requirement of the notice, unless the person has a reasonable excuse.

Maximum penalty—80 penalty units.

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---

- ‘(2) In a proceeding for an offence of engaging in conduct that results in a contravention of a requirement of an improvement notice, it is a defence if the person charged establishes that—
- (a) the alleged contravention or likely contravention; or
  - (b) the matters or activities occasioning the alleged contravention or likely contravention;
- were remedied within the period stated in the notice, though in a different way from that stated in the notice.

### **‘39S Amendment of improvement notice**

- ‘(1) An improvement notice given by an authorised officer who is not a police officer may be amended by any authorised person who is not a police officer.
- ‘(2) An improvement notice given by a police officer may be amended by any police officer.
- ‘(3) An amendment of an improvement notice is effected by giving written notice stating the terms of the amendment to the person who is subject to the improvement notice.
- ‘(4) An amendment of an improvement notice is ineffective if it purports to deal with a contravention of a provision of this Act that is different from a provision stated in the improvement notice as first given.
- ‘(5) A notice of an amendment of an improvement notice must state the following—
- (a) the reasons for the amendment;
  - (b) the prescribed review information for the decision to make the amendment;
  - (c) that the notice of the amendment is given under this section.

---

**‘39T Cancellation of improvement notice**

- ‘(1) An improvement notice given to a person by an authorised officer who is not a police officer may be cancelled by the chief executive.
- ‘(2) An improvement notice given to a person by a police officer may be cancelled by—
  - (a) the commissioner; or
  - (b) a police officer who has been appointed to exercise the powers under this subdivision and who is more senior in rank to the police officer who gave the notice to the person.
- ‘(3) Written notice of the cancellation must be given to the person to whom the improvement notice was given.

**‘39U Clearance certificate**

- ‘(1) An authorised officer may issue a certificate stating that all or any stated requirements of an improvement notice have been complied with (a *clearance certificate*).
- ‘(2) A requirement of an improvement notice stops having effect when the person to whom the notice was given receives a clearance certificate stating that—
  - (a) the requirement has been complied with; or
  - (b) all requirements of the notice have been complied with.

**‘39V Formal warning**

- ‘(1) Instead of taking proceedings against a person for a contravention of a provision of this Act, an authorised officer may give a formal warning to the person if the officer believes—
  - (a) the person took reasonable steps to prevent the contravention and was unaware of the contravention; and

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---

- (b) the contravention is appropriate to be dealt with by way of a formal warning under this section.
- ‘(2) A formal warning must be in writing.
- ‘(3) A formal warning can not be given for—
  - (a) a substantial risk breach, or severe risk breach, of a mass, dimension or loading requirement; or
  - (b) a substantial risk breach, severe risk breach or critical risk breach under the fatigue management regulation.
- ‘(4) In this section—  
*proceedings* includes action by way of an infringement notice.

### **‘39W Withdrawal of formal warning**

- ‘(1) Within 21 days after a formal warning is given to a person under section 39V, it may be withdrawn by—
  - (a) for a warning given by an authorised officer who is not a police officer—the chief executive; or
  - (b) for a warning given by a police officer—the commissioner.
- ‘(2) Written notice of the withdrawal must be given to the person to whom the warning was given.
- ‘(3) After the formal warning has been withdrawn, proceedings may be taken against the person for the contravention.
- ‘(4) In this section—  
*proceedings* includes action by way of an infringement notice.’.

### **258 Replacement of ch 6, pt 3, hdg (Other provisions)**

Chapter 6, part 3, heading—

*omit, insert—*

## **‘Part 3 Court orders’.**



---

**259 Insertion of new ch 6, pt 3, div 1**

Chapter 6, part 3, before section 164—

*insert—*

**‘Division 1 Preliminary**

**‘163F Definitions for pt 3**

‘In this part—

*convicts*, a person, includes finds a person guilty, and accepts a plea of guilty from a person, whether or not a conviction is recorded.

*heavy vehicle offence* means an offence against a transport Act in relation to a heavy vehicle.

*road compensation order* see section 164AB(1).

*supervisory intervention order* see section 164B(1).

*transport Act*, other than in section 164, does not include the Queensland Road Rules.’.

**260 Insertion of new ch 6, pt 3, div 2, hdg**

Chapter 6, part 3, after section 163F—

*insert—*

**‘Division 2 Court orders for payment’.**

**261 Amendment of s 164 (Court orders for payment)**

(1) Section 164(1)—

*omit.*

(2) Section 164(2) and (3)—

*renumber* as section 164(1) and (2).

(3) Section 164—

*insert—*

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---

‘(3) Subsection (2) does not apply in relation to a heavy vehicle offence.

*Note—*

See division 3 in relation to a heavy vehicle offence.’.

## **262 Insertion of new ch 6, pt 3, div 3**

Chapter 6, part 3, after section 164—

*insert—*

### **‘Division 3 Road compensation order**

#### **‘164AA Definition for div 3**

‘In this division—

*responsible entity* means—

- (a) in relation to a State-controlled road under the *Transport Infrastructure Act 1994*, means the chief executive; or
- (b) in relation to a road under the control of a local government, means the local government.

#### **‘164AB Road compensation order**

- ‘(1) If a court convicts a person of a heavy vehicle offence, the court may make an order (*road compensation order*) requiring the offender to pay to the responsible entity an amount by way of compensation for damage caused to any road infrastructure as a consequence of the commission of the offence.
- ‘(2) The road compensation order may be made on application by the prosecutor and is in addition to any other penalty imposed for the offence.
- ‘(3) The court may make the road compensation order if satisfied on the balance of probabilities that the commission of the offence caused or contributed to the damage.

- 
- ‘(4) The road compensation order may be made when the court convicts the person of the heavy vehicle offence or at any time afterwards, but not later than the period within which a prosecution for the offence could have been started.

### **‘164AC Assessment of compensation**

- ‘(1) In making the road compensation order, the court may assess the amount of compensation, or any other matter relevant to the assessment.

*Example of any other matter—*

the estimated cost of remedying the damage the subject of the road compensation order

- ‘(2) In assessing the amount of compensation, the court may take into account the matters it considers relevant, including all or any of the following—
- (a) any evidence adduced in connection with the prosecution of the offence;
  - (b) any evidence not adduced in connection with the prosecution of the offence but adduced in connection with the making of the proposed order;
  - (c) any certificate of the responsible entity stating that the responsible entity maintains the relevant road;
  - (d) any other certificate of the responsible entity, including, for example, a certificate—
    - (i) estimating the monetary value of all or any part of the road infrastructure or of the damage to it; or
    - (ii) estimating the cost of remedying the damage; or
    - (iii) estimating the extent of the offender’s contribution to the damage.

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### **‘164AD Copy of certificate to be given to defendant**

- ‘(1) If the responsible entity proposes to use a certificate mentioned in section 164AC(2) in proceedings, the responsible entity must give a copy of the certificate to the defendant at least 28 business days before the day fixed for the hearing of the matter.
- ‘(2) The certificate can not be used in the proceedings unless a copy of the certificate has been given to the defendant under subsection (1).
- ‘(3) If the defendant intends to challenge a statement in the certificate, the defendant must give the responsible entity notice in writing of the intention to challenge (the *notice of intention to challenge*), stating the matters in the certificate that are intended to be challenged.
- ‘(4) The defendant must give the notice of intention to challenge to the responsible entity at least 14 business days before the day fixed for the hearing.
- ‘(5) If the defendant intends to challenge the accuracy of any measurement, analysis or reading in the certificate, the notice of intention to challenge must state—
  - (a) the reason why the defendant alleges the measurement, analysis or reading is inaccurate; and
  - (b) the measurement, analysis or reading the defendant considers to be correct.
- ‘(6) The defendant can not challenge any matter in the certificate if the defendant has not complied with subsections (3) to (5), unless the court gives leave to do so in the interests of justice.

### **‘164AE Limits on amount of compensation**

- ‘(1) If, in making the road compensation order, the court is satisfied that—
  - (a) the commission of the heavy vehicle offence contributed to the damage the subject of the order; but

- (b) other factors not connected with the commission of the offence also contributed to the damage;

the court must limit the amount of the compensation payable by the offender to the amount the court assesses as being the offender's contribution to the damage.

- '(2) The maximum amount of compensation can not exceed the monetary limit to the court's jurisdiction in civil proceedings.
- '(3) The court may not include in the road compensation order any amount for—
- (a) personal injury or death; or
  - (b) loss of income, whether sustained by the State or any other entity; or
  - (c) damage to any property, including a vehicle, that is not part of the road infrastructure.

#### **'164AF Costs**

'The court has the same power to award costs in relation to the proceedings for the road compensation order as it has under the *Uniform Civil Procedure Rules 1999* in relation to civil proceedings, and those rules apply with any necessary changes to the proceedings for the road compensation order.

#### **'164AG Enforcement of compensation order and costs**

'The road compensation order, and any award of costs, are enforceable as if they were a judgment of the court in civil proceedings.

#### **'164AH Relationship with orders or awards of other courts and tribunals**

- '(1) A road compensation order may not be made if another court or tribunal has awarded compensatory damages or

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compensation in civil proceedings in relation to the damage the subject of the order based on the same or similar facts.

- ‘(2) If a court purports to make a road compensation order in the circumstances mentioned in subsection (1)—
- (a) the order is void to the extent it covers the same matters as those covered by the other award; and
  - (b) any payment made under the order to the extent to which it is void must be repaid by the responsible entity.
- ‘(3) The making of a road compensation order does not prevent another court or tribunal from afterwards awarding damages or compensation in civil proceedings in relation to the damage the subject of the order based on the same or similar facts, but the court or tribunal must take the order into account when awarding damages or compensation.
- ‘(4) Nothing in this division affects or limits any liability to pay compensation under the *Transport Infrastructure Act 1994*, section 48 other than as provided by this section.’

**263 Insertion of new ch 6, pt 3, div 4, hdg**

Before section 164A—

*insert—*

**‘Division 4 Commercial benefits penalty order’.**

**264 Amendment of s 164A (Commercial benefits penalty order)**

Section 164A(1), from ‘finds’ to ‘heavy vehicle,’—

*omit, insert—*

‘convicts a person of a heavy vehicle offence or an offence against a transport Act in relation to’.

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**265 Insertion of new ch 6, pt 3, div 5**

After section 164A—

*insert—*

**‘Division 5 Supervisory intervention orders**

**‘164B Supervisory intervention orders**

- ‘(1) If a court convicts a person of a heavy vehicle offence, the court may, on application by the prosecutor, make an order dealing with any or all of the matters stated in section 164C (a *supervisory intervention order*).
- ‘(2) However, the court may make the supervisory intervention order only if the court—
- (a) considers it appropriate having regard to the number of previous convictions of the person for a heavy vehicle offence, or a similar offence under a corresponding law to a transport Act; and
  - (b) is satisfied the order is capable of improving the person’s ability or willingness to comply with a transport Act in relation to a heavy vehicle, having regard to—
    - (i) the heavy vehicle offences of which the person has been previously convicted; and
    - (ii) any other offences or other matters the court considers relevant to the person’s conduct in connection with road transport.
- ‘(3) In this section—
- conviction* includes an order made under the *State Penalties Enforcement Act 1999*, section 38.

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**‘164C What supervisory intervention order may deal with**

- ‘(1) The supervisory intervention order may require the person, at the person’s own expense and for a stated period not exceeding 1 year, to do any or all of the following—
- (a) do stated things that the court considers will improve the person’s compliance with a transport Act in relation to a heavy vehicle, including, for example, the following—
    - (i) appointing or removing employees to or from particular activities or positions;
    - (ii) training and supervising employees;
    - (iii) obtaining expert advice about maintaining appropriate compliance;
    - (iv) installing monitoring, compliance, managerial or operational equipment, including, for example, intelligent transport system equipment;
    - (v) implementing monitoring, compliance, managerial or operational practices, systems or procedures;
  - (b) conduct specified monitoring, compliance, managerial or operational practices, systems or procedures subject to the direction of the chief executive;
  - (c) give compliance reports to the chief executive or the court or both as stated in the order;
  - (d) appoint a person to have the following responsibilities—
    - (i) to assist the person in improving compliance with all, or stated aspects of, a transport Act in relation to a heavy vehicle;
    - (ii) to monitor the person’s performance in complying with all, or stated aspects of, a transport Act in relation to a heavy vehicle and in complying with the requirements of the order;
    - (iii) to give compliance reports to the chief executive or the court or both as stated in the order.



- 
- ‘(2) The supervisory intervention order may state matters that are to be dealt with in compliance reports and the form, manner and frequency in which the reports are to be prepared and given.
- ‘(3) The supervisory intervention order may require that compliance reports or aspects of the reports be made public, and may state the form, manner and frequency in which they are to be made public.
- ‘(4) The supervisory intervention order may direct that any other penalty or sanction imposed for the offence by the court is suspended until the court decides there has been a substantial failure to comply with the order.
- ‘(5) In this section—
- compliance report***, in relation to a person the subject of a supervisory intervention order, means a report relating to—
- (a) the person’s compliance with—
    - (i) a transport Act, or aspects of it, as stated in the order; and
    - (ii) the requirements of the order; and
  - (b) without limiting paragraph (a)—
    - (i) things done by the person to ensure that any failure by the person to comply with a transport Act, or aspects of it, as stated in the order does not continue; and
    - (ii) the results of those things having been done.

**‘164D Amending or revoking supervisory intervention order**

‘The court may amend or revoke the supervisory intervention order on application by—

- (a) the chief executive; or

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- (b) the person in relation to whom the order was made, but only if the court is satisfied there has been a change of circumstances warranting the amendment or revocation.

#### **‘164E Contravention of a supervisory intervention order**

‘A person commits an offence if—

- (a) the person is subject to a requirement of a supervisory intervention order; and
- (b) the person engages in conduct resulting in a contravention of the requirement.

Maximum penalty—100 penalty units.’.

#### **266 Insertion of new ch 6, pt 4, hdg**

After section 164E—

*insert—*

#### **‘Part 4 Other provisions’.**

#### **267 Amendment of sch 3 (Reviewable decisions)**

Schedule 3—

*insert—*

- ‘39Q(2) giving an improvement notice
- 39S(1) or amending an improvement notice
- (2)
- 39U(1) not issuing a clearance certificate’.

#### **268 Amendment of sch 4 (Dictionary)**

- (1) Schedule 4, definition *improvement notice*—  
*omit.*
- (2) Schedule 4—

*insert*—

*'clearance certificate* see section 39U(1).

*convicts*, a person, for chapter 6, part 3, see section 163F.

*heavy vehicle offence*, for chapter 6, part 3, see section 163F.

*improvement notice*—

(a) for chapter 3, part 3, division 2, subdivision 7—see section 39Q(2); or

(b) for chapter 5A, parts 5 and 7—see section 161B(2).

*infringement notice* means an infringement notice under the *State Penalties Enforcement Act 1999*.

*responsible entity*, for chapter 6, part 3, division 3, see section 164AA.

*road compensation order*, for chapter 6, part 3, see section 163F.

*supervisory intervention order*, for chapter 6, part 3, see section 163F.

## Part 10                      Amendment of Transport Operations (TransLink Transit Authority) Act 2008

### 269      Act amended

This part amends the *Transport Operations (TransLink Transit Authority) Act 2008*.

### 270      Replacement of s 45 (Annual report)

Section 45—

*omit, insert*—

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## **‘45 Annual report**

- ‘(1) Each annual report of TransLink must include the following—
- (a) a copy of any Ministerial directions given during the year to which the report relates (the *year*);
  - (b) a statement about how TransLink performed its functions during the year compared with the expected performance for the year under the relevant network plan;
  - (c) for each holder of a service contract for the TransLink area who received State funding or other financial assistance during the year—details of the funding or other financial assistance;
  - (d) reasons for the funding or other financial assistance mentioned in paragraph (c);
  - (e) any other matter prescribed under a regulation.

- ‘(2) In this section—

*state funding or other financial assistance* means funding or other financial assistance provided by the State under the *Transport Operations (Passenger Transport) Act 1994*, section 52.’.

## **Part 11 Amendment of Transport Planning and Coordination Act 1994**

### **271 Act amended**

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

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**272 Amendment of s 3 (Definitions)**

- (1) Section 3, definition *transport associated development*, paragraph (a), from ‘and the integration’ to ‘community’, second mention—

*omit.*

- (2) Section 3, definition *transport associated development*, editor’s notes—

*omit.*

**273 Amendment of s 8A (Object of pt 2A)**

Section 8A(2)(h), ‘so’—

*omit, insert—*

‘as’.

**274 Insertion of new s 27A**

After section 27—

*insert—*

**‘27A Power of chief executive to dispose of land subject to easement**

- ‘(1) This section applies if the chief executive—
- (a) intends to offer land acquired under this part to the former owner under the *Acquisition of Land Act 1967*, section 41; and
  - (b) reasonably believes an easement over all or part of the land is necessary to ensure the structural and operational integrity of transport infrastructure.
- ‘(2) For the *Acquisition of Land Act 1967*, section 41(1), the chief executive may offer the land to the former owner subject to an easement over all or part of the land in favour of the chief executive.

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- ‘(3) The chief executive must give a document stating the nature of the easement and its terms—
- (a) to the former owner when offering the land for sale; and
  - (b) to the chief executive (valuation).
- ‘(4) The chief executive (valuation) must take into account the existence of the easement in determining the price of the land under the *Acquisition of Land Act 1967*, section 41(1).
- ‘(5) In this section—
- chief executive (valuation)* means the chief executive of the department in which the *Valuation of Land Act 1944* is administered.
- the former owner* see the *Acquisition of Land Act 1967*, section 41(2).’.

**275 Replacement of s 28 (No compensation for works after notice of intention to resume or agreement to acquire)**

Section 28—

*omit, insert—*

**‘28 Matters affecting compensation payable**

‘Notwithstanding the *Acquisition of Land Act 1967*, section 20(2), in deciding the amount of compensation payable to a person for land resumed under this part, regard must not be had—

- (a) to the value of works carried out on the land at a time after a notice of intention to resume the land has been sent to a person entitled to compensation for the land or agreement to acquire has been reached; or
- (b) to any change in the value of the land as a result of the declaration of a prescribed transit node.’.

**276 Amendment of s 28AA (Declaration of area used or to be used for particular purposes to be prescribed transit node)**

(1) Section 28AA, heading—

*omit, insert—*

**‘28AA Declaration of area to be prescribed transit node’.**

(2) Section 28AA(1), ‘as any of the following’—

*omit, insert—*

‘for purposes of the following’.

**277 Insertion of new s 36H**

Part 6—

*insert—*

**‘36H Storing emergency contact information electronically on a relevant prescribed document**

‘(1) An eligible person may apply to the relevant entity, in the approved form, to have the person’s emergency contact information stored electronically on a relevant prescribed document.

‘(2) After receiving the information, the relevant entity must electronically store the emergency contact information on the relevant prescribed document.

‘(3) In this section—

*adult proof of age card* has the meaning given by the *Adult Proof of Age Card Act 2008*, section 5.

*eligible person* means—

(a) the holder of a relevant prescribed document; or

(b) an applicant for—

(i) an adult proof of age card; or

(ii) a marine licence or smartcard marine licence indicator; or

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(iii) a smartcard driver licence.

**emergency contact information**, of an eligible person, means any or all of the following information—

- (a) the name of a person to be contacted if there is a risk to the holder's life or health;
- (b) the following information about the person mentioned in paragraph (a)—
  - (i) the person's phone number;
  - (ii) the person's address.

**marine licence** has the meaning given by the *Transport Operations (Marine Safety) Act 1994*, schedule.

**relevant entity** means—

- (a) for an application under subsection (1) relating to an adult proof of age card or a smartcard driver licence—the chief executive; or
- (b) for an application under subsection (1) relating to a marine licence or a smartcard marine licence indicator—
  - (i) the chief executive; or
  - (ii) the general manager under the *Maritime Safety Queensland Act 2002*.

**relevant prescribed document** means any of the following documents—

- (a) an adult proof of age card;
- (b) a smartcard marine licence indicator;
- (c) a smartcard driver licence.

**smartcard driver licence** see the *Transport Operations (Road Use Management) Act 1995*, schedule 4.

**smartcard marine licence indicator** see the *Transport Operations (Marine Safety) Act 1994*, schedule.7.



**278 Insertion of new pt 7**

After section 38—

*insert—*

**‘Part 7 Transitional provision**

**‘39 Transitional provision for Transport and Other Legislation Amendment Act (No. 2) 2010**

‘The amendment of the *Transport Planning and Coordination Regulation 2005* by the *Transport and Other Legislation Amendment Act (No. 2) 2010* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

**Part 12 Amendment of Transport Planning and Coordination Regulation 2005**

**279 Regulation amended**

This part amends the *Transport Planning and Coordination Regulation 2005*.

**280 Amendment of s 4 (Prescribed transit nodes—Act, s 28AA)**

(1) Section 4(1), ‘as busway stations’—

*omit, insert—*

‘for the purpose of a busway station’.

(2) Section 4(1B), ‘as stations’—

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*omit, insert—*  
'for the purpose of a station'.

## **Part 13**                      **Minor and consequential amendments**

### **281**    **Acts amended in schedule**

The schedule amends the Acts it mentions.

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**Schedule                      Acts amended**

section 281

**Transport Infrastructure Act 1994**

- 1            **Section 42(2), from ‘application’—**  
*omit, insert—*  
‘application.’.
  
- 2            **Sections 49(1)(b)(ii) and 75(a), ‘under the *Sustainable Planning Act 2009*’—**  
*omit.*
  
- 3            **Sections 74(6), definitions *development* and *premises*, 85B(3), definition *development*, 93A(3), definition *development*, 105Y(3)(c), 247(1) and (2), 258B(1)(a), 284, definition *valuable features*, 287, 287A(4), 304(2), 356(2), 426(2)(a), 476, 477(1), 477A(2), definition *community infrastructure*, ‘*Sustainable Planning Act 2009*’—**  
*omit, insert—*  
‘Planning Act’.
  
- 4            **Section 74(6), definitions *material change of use* and *reconfiguring a lot*—**  
*omit.*
  
- 5            **Section 75, heading, ‘under Sustainable Planning Act 2009’—**  
*omit.*

- 6 Section 75(c), ‘that Act’—**  
*omit, insert—*  
‘the Planning Act’.
- 7 Section 247, heading, ‘Sustainable Planning Act 2009’—**  
*omit, insert—*  
‘Planning Act’.
- 8 Section 258(1), from ‘agency’—**  
*omit, insert—*  
‘agency for a development application.’.
- 9 Section 258(4), ‘Sustainable Planning Act 2009’—**  
*omit, insert—*  
‘Planning Act’.
- 10 Section 258A(5), ‘under IDAS’—**  
*omit.*
- 11 Section 258A(6)—**  
*omit.*
- 12 Section 287A(1), from ‘agency’—**  
*omit, insert—*  
‘agency for a development application.’.

---

## Transport (New Queensland Driver Licensing) Amendment Act 2008

**1 Section 26(1) to (3)—**

*renumber* as section 26(2) to (4).

**2 Section 26—**

*insert—*

‘(1) Section 77, heading, ‘Queensland driver licence’—

*omit, insert—*

**‘person’s prescribed authority’.**

*Editor’s note—*

Amendments 1 and 2, legislation ultimately amended—

- *Transport Operations (Road Use Management) Act 1995*

## Transport Operations (Passenger Transport) Act 1994

**1 Section 97—**

*insert—*

‘(2) The interim standard must include a sunset provision stating the interim standard expires 6 months after its commencement.’.

## **Transport Operations (Road Use Management) Act 1995**

**1 Schedule 4, definition *work*, paragraph (d)(vii),  
'subparagraph'—**

*omit, insert—*

'any of subparagraphs'.

## **Transport Security (Counter-Terrorism) Act 2008**

**1 Section 25(6), definition *prescribed standard*, paragraph  
(b), 'manual 2'—**

*omit, insert—*

'manual 42'.

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