

TRANSPORT PLANNING AND COORDINATION BILL 1993

EXPLANATORY NOTE

GENERAL OUTLINE

Rationalisation of Transport Legislation

The Minister for Transport is responsible for the administration of 55 Acts.

As part of the process of integrating the State's transport functions, it is planned to rationalise this legislation to approximately 20 Acts.

The key to this plan is to establish peak legislation for the portfolio, namely the *Transport Planning and Coordination Bill 1993*. The primary supporting legislation will be the *Transport Infrastructure Bill 1993* and four other proposed Bills covering transport services. Refer to Appendix A for a graphical representation of the legislative structure for the transport portfolio.

Key Components of the Bill

The proposed *Transport Planning and Coordination Bill 1993* comprises three key components:

- (a) a requirement to develop a Transport Coordination Plan to provide a strategic framework for the planning and management of transport throughout the State;
- (b) consolidation of existing property acquisition powers throughout Acts administered by the Department of Transport into this legislation. Also, powers of compulsory property acquisition for transport-related Government Owned Corporations (GOCs) are to be centralised; and
- (c) establishment of an interim merits-based appeals process for all

transport legislation pending consideration of a State government-wide, merits-based appeals system.

Objectives of Legislation

The objectives of the *Transport Planning and Coordination Bill 1993* essentially are to coordinate transport in a way that provides economic and social benefits. These are broad objectives which are supplemented by more detailed objectives within the primary supporting legislation, that is, the *Transport Infrastructure Bill 1993* and four other proposed bills concerning transport services. This “family” of legislation will contain a hierarchy of objectives which become progressively more specific. In particular, the supporting legislation contains mode-specific legislative objectives and further objectives are contained within the mode-specific strategies and programs which give effect to the higher level objectives.

This Bill’s overall objectives will be met by achieving overall transport effectiveness and efficiency through strategic planning and management of transport resources.

Purposes of the Legislation

Strategic Planning

No legislative structure currently exists which outlines the strategic planning and management role of the Minister for Transport across all transport matters.

Under the Public Finance Standards the chief executive is required to prepare a strategic plan for the Department of Transport. This legislation expands on the requirement for a departmental strategic plan. It requires a strategic plan for the transport portfolio to be developed by the chief executive for approval by the Minister prior to its consideration by Cabinet, and for the Minister to be accountable to Parliament for its achievements.

The legislative obligation for strategic planning will establish openness and accountability in the planning process, by requiring the identification of outcomes to be achieved from the use of resources in developing and regulating transport, and the regular reporting to Parliament on the achievement of those outcomes. Public consultation is built into the planning process.

While the responsibility for preparing the plan is vested in the chief executive, ultimate ministerial responsibility is preserved by requiring ministerial approval for the plan before it takes effect and by giving the Minister power to direct amendments to the plan before approval.

The legislation will require the performance of Queensland's transport system to be able to be measured against defined objectives and provide a basis for effective Parliamentary scrutiny and public accountability. This will be achieved through the development of performance indicators to be built into the Transport Coordination Plan and into the various transport infrastructure strategies developed within the Transport Infrastructure Bill and the various transport services strategies which will be developed within other proposed future transport services legislation.

Relationship to Transport-related GOCs

The mechanisms and processes for the development of the Plan must include appropriate recognition and involvement of all of the portfolio, including Queensland Railways and the proposed GOC port authorities.

All government-funded transport infrastructure and transport services issues will have to be taken into account in the planning process.

Performance obligations will be imposed on transport-related GOCs in the construction, maintenance and operation of all government supported transport infrastructure for which each such organisation is responsible.

The Transport Coordination Plan would provide a framework within which transport-related GOCs might develop their own strategies.

Property Acquisition

The legislation also proposes the consolidation of property acquisition powers for the transport portfolio (six constructing authority provisions are included in the current legislative base), including powers of resumption on behalf of transport-related GOCs.

Merits-based Appeals

The Bill also provides an interim scheme for review, on the merits, of administrative decisions made under legislation administered by the

Minister for Transport. Current Government policy, as expressed in the *Legislative Standards Act 1992*, supports the provision of merits-based appeal mechanisms in new legislation to provide for independent, external review of administrative decisions.

In accordance with this policy, provision for merits-based appeals against specified decisions is included in the proposed *Marine Safety Bill* and the *Transport Infrastructure Bill*. If provision for merits-based appeals is included only in new legislation, only those areas of Departmental administration which are governed by new legislation will be subject to the discipline of external merits-based review and only those persons affected by decisions made under that new legislation will have rights of review. Those who are affected by decisions made under unrevised legislation will have either no such rights or only the current somewhat haphazard arrangements.

Pending Government decision on the EARC Report on Review of Appeals from Administrative Decisions, it is desirable to set in place more comprehensive interim arrangements for review of decisions under transport legislation. This can be most conveniently done by enabling the making of regulations under transport legislation providing for merits review by the District Court or a Magistrates Court, according to whichever is the more appropriate in any particular case.

It is intended that these interim arrangements will be reviewed in the context of Government decisions on the EARC report.

Delegation Powers

Finally, the Bill will confer on the Minister and the chief executive comprehensive powers of delegation for the more convenient administration of transport legislation.

Portfolio Strategic Planning

The proposed *Transport Planning and Coordination Bill 1993* incorporates a legislative obligation to develop a Transport Coordination Plan for the strategic management of transport across the State, including the integration of plans of the Department of Transport with those of transport-related GOCs, namely, Queensland Railways and the various port

authorities. Refer to Appendix B for a graphical representation of the strategic planning structure for the transport portfolio.

The Transport Coordination Plan will provide a framework for the strategic planning and management of the most important transport infrastructure and services in Queensland, especially those controlled by the Department of Transport and the transport-related GOCs.

Concerning the strategic planning provisions of the proposed legislation, the Transport Coordination Plan will:

- give effect to the Government’s economic statement “Queensland - Leading State”;
- ensure the best return on the Government’s financial and other resource investments in the State’s transport system;
- provide an environment for greater portfolio accountability and public transparency in the way resources are allocated and used i.e. the performance of the transport system will be measured against defined objectives;
- reinforce and give further focus to the Government’s objectives of an integrated approach to the planning, development and management of the State’s transport system;
- significantly increase the predictability in Government strategic planning;
- drive internal cultural change to ensure a whole-of-portfolio perspective; and
- focus the portfolio’s activities on outcomes rather than inputs and allow the Government to more objectively prioritise the use of finite resources. Each successive Plan will provide a firm basis for the Minister to provide advice to Treasury and Cabinet on budget priorities. The development of a Plan will not override the responsibility of the department to evaluate all proposed infrastructure projects and transport services in accordance with criteria approved by Treasury. Major projects will still require Cabinet approval before development.

Estimated Cost for Government Implementation

The implementation process for this Bill will be administrative in nature and so the cost will not be significant. Costs will be able to be met within existing budgetary allocations.

By requiring a detailed Transport Coordination Plan to be developed, the Government's ability to effectively prioritise integrated transport needs will be maximised. This will provide greater objectivity in apportioning investment dollars to meet competing transport requirements.

Consultation

Extensive support has been received on the statutory obligation for the development of a Transport Coordination Plan.

There has been strong support for a legislative commitment to strategic planning at the portfolio level and for rationalisation of the legislation from 55 Acts to around 20.

To the extent that it is possible to reconcile the sometimes conflicting views, the various comments have been incorporated into the revised draft of this Bill. There are no unresolved substantive issues.

NOTES ON PROVISIONS**PART 1—PRELIMINARY**

Clause 1 sets out the short title of the Bill.

Clause 2 provides for the commencement date of the various provisions of the Bill.

Clause 3 outlines the objectives of the Bill.

Clause 4 defines the term “chief executive” used in the Bill.

PART 2—TRANSPORT COORDINATION PLAN

Clause 5(1) provides that the chief executive must develop, for the Minister's approval, a Transport Coordination Plan to provide a strategic framework for the planning and management of transport throughout the State.

Clause 5(2) prescribes that in developing a Transport Coordination Plan, public consultation must be undertaken.

Each successive Plan will be prepared in consultation with other Government departments, local governments and key industry and community stakeholders.

Clause 5(3) prescribes that each Transport Coordination Plan has effect for a period which must be identified in the Plan, but if circumstances determine, the chief executive may develop a new Transport Coordination Plan even though the period has not ended.

Clause 5(4) provides the Minister with the power to direct the development of a new Transport Coordination Plan or the amendment of an existing Transport Coordination Plan.

Clause 5(5) provides the Minister with the power to approve and/or direct the chief executive to amend a Transport Coordination Plan submitted for approval.

Clause 6(1) prescribes the mandatory elements of a Transport Coordination Plan.

The spending criteria to be developed within the Transport Coordination Plan will facilitate allocation by Government of the available funds between government supported transport infrastructure and transport services in order to achieve the best overall transport system for Queensland. Also, the Transport Infrastructure Bill and other proposed future transport services legislation will incorporate criteria concerning the allocation of funds between the differing transport modes (including between the Department of Transport and the transport-related GOCs). This will ensure that Queensland gets the best return on its financial and other resource investments in the State's transport system.

Clause 6(2) prescribes that a Transport Coordination Plan must provide a framework for the coordinated planning of transport and the means for ensuring the best use of land for transport purposes.

Clause 7 requires that each Transport Coordination Plan must be consistent with the government's overall strategic planning for Queensland and must take account of the planning, strategies, interests and policies for the three levels of government and regional strategies.

The development of the Plan will provide the framework for the coordinated planning of transport. For example, it provides a context for consideration by Government of the transport initiatives stemming from the Regional Planning Advisory Group recommendations for South-East Queensland.

Clause 8 requires each approved Transport Coordination Plan and any subsequent amendments to that Transport Coordination Plan to be tabled in the Legislative Assembly.

The legislation imposes a legislative obligation on the Minister for Transport to operate strategically, and in a transparent way, across the various complementary, but in many ways, competing, forms of transport, and to be accountable for that to the Parliament.

PART 3—POWERS AND PROPERTY

Clause 9 provides the chief executive with specific powers and authorities to enter into agreements, arrangements and to contract on behalf of the State in regard to transport matters.

Clause 10(1) enables the chief executive to deal in real and personal property, for the State, within the confines of transport and related purposes.

Clause 10(2) confers on the chief executive the power to acquire land by resumption for the purposes of transport or for a related purpose.

Clause 10(3) expands on the purposes for which the chief executive, for the State, may acquire land as a constructing authority under the *Acquisition of Land Act 1967*.

Clause 10(4) requires the chief executive to take into account the provisions of the current Transport Coordination Plan and the requirements of the transport infrastructure strategies under the *Transport Infrastructure Bill 1993* in acquiring land.

Clause 10(5) confirms the chief executive as a constructing authority under the *Acquisition of Land Act 1967*.

Clause 10(6) enables the chief executive, under the *Acquisition of Land Act 1967*, to obtain a lease of Crown Land or some other estate or interest in Crown Land that is less than freehold.

Clause 10(7) provides that if an acquisition of land would sever land of the owner from other land of the owner, the chief executive, with the approval of the Minister, has the power to acquire the whole or a part of that severed land.

Clause 11 enables the chief executive to acquire land for future transport needs.

Clause 12 empowers the chief executive to transfer land acquired by resumption to a transport-related GOC notwithstanding the provisions of the *Acquisition of Land Act 1967*. This provision is consistent with the *Government Owned Corporations Act 1993* and with the Government's GOC policy directions.

Clause 13 provides that where compensation is payable for resumed land, the value of any works constructed (by the chief executive or the owner) after issue of the notice of intention to resume and before compensation has been finalised cannot be taken into account in determining the amount of compensation.

PART 4—APPEALS

Clause 14 defines terms used in Part 4.

Clause 15 provides that the Governor in Council may make regulations under transport Acts to provide for a system of appeals on the merits of decisions specified by the regulations.

A schedule of reviewable decisions will be identified under each new transport enactment or, for existing Acts, reviewable decisions will be identified by regulation for that enactment.

Clause 16 prescribes that unless otherwise determined or specified in other transport legislation, any appeal by a person must be made within 28 days of that decision having been advised in writing.

Clause 17 outlines the process by which a person commences an appeal.

Clause 18 allows the court to which the appeal lies to grant a stay of operation of the decision to ensure the effectiveness of the appeal hearing.

Clause 19 outlines the powers of a court in determining an appeal.

Clause 20 determines that if a court substitutes another decision, then the substituted decision of the court is taken to be that of the decision maker under that transport Act.

Clause 21 empowers a District Court to make rules of court under the *District Courts Act 1967* for the purposes of administrative appeals.

Clause 22 provides that if an appeal involves a question of special knowledge and/or skill, the Judge of a District Court may appoint assessors to help that Judge in the determination of the appeal.

Clause 23 empowers the making of rules of court under the *Magistrates Courts Act 1921* for the purposes of administrative appeals.

Clause 24 enables a regulation providing for appeal to a court against a decision to also provide that the appeal does not lie unless the person concerned has first sought a review of that decision by the chief executive.

PART 5—GENERAL

Clause 25(1) provides for the powers of the Minister and chief executive under this or any other Act to be delegated to others.

Clause 25(2) provides for the on-delegation of powers.

Clause 26 provides the Governor in Council with the power to make regulations under the Bill.