

TRANSPORT (GLADSTONE EAST END TO HARBOUR CORRIDOR) BILL 1996

EXPLANATORY NOTES

GENERAL

Short Title

The Bill's short title is Transport (Gladstone East End to Harbour Corridor) Bill 1996.

Policy Objectives

The objectives of this Bill are to acquire certain privately held land in the Gladstone area for a rail transport corridor, to make this land and other land already owned by the State immediately available for the purposes of constructing a railway line and to put this beyond the reach of the *Judicial Review Act 1991*.

How Policy Objections will be advised

The Bill will achieve this by the State taking possession of the required land immediately on assent. Compensation for current land owners will be determined afterwards in the way compensation is otherwise determined by the *Acquisition of Land Act 1967*.

Alternatives to this Bill

Although the required land could be resumed using existing legislation, immediacy of access cannot be guaranteed. Administrative decisions taken under current legislation could be subject to judicial review. The judicial review process would lead to a delay in gaining access to the land and construction of the rail line.

Costs

Implementing the Bill would not involve costs greater than acquiring by other means. Compensation rights of current land owners and others with an interest in the land will not be changed by the Bill.

Consistency of the Bill with fundamental legislative principles.

It is possible that the Bill may infringe, in certain respects, the fundamental legislative principles contained in the *Legislative Standards Act 1992*, particularly relating to individual rights and liberties (Section 4.2).

In this regard, it should be noted that the Bill will have the effect of denying access to the *Judicial Review Act*.

Consultation

Consultation took place with:—

- the Department of Main Roads
- the Department of Transport
- the Department of Natural Resources
- Queensland Rail
- the Crown Solicitor and
- Graham Gibson QC.

No public consultation was undertaken.

NOTES ON PROVISIONS

Clause 2 allows for land not already held by the State to be taken for rail transport corridor purposes. Most of the land covered by this clause is privately owned freehold land, and the balance land is a reserve held by the local government as trustee.

Clause 3 allows for privately owned land to be taken and land already held by the State in a variety of tenures (including Unallocated State Land) to be made available for road purposes. The rail corridor will displace some existing roads and this clause will allow for new roads to be opened to take their place.

Clause 4 describes how this legislation interacts with the *Acquisition of Land Act 1967*. It determines that the land is being taken for a public purpose and tells those who have a direct interest in the affected land how to seek compensation. A direct interest includes persons with an easement in addition to owners. Compensation rights are identical to the rights that would have been available through the *Acquisition of Land Act 1967*. The *Acquisition of Land Act 1967* allows compensation to be set by agreement or through the Land Court. Although the land has been cleared with regard to Native Title, this clause provides for any unexpected Native Title holders to be treated in the manner established by the *Native Title (Queensland) Act 1993*.

Clause 5 allows the dates for road closures to be set after assent, by way of notice in the Gazette. This is to ensure that public roads are not closed prematurely and before alternative arrangements have been put in place on the ground. Provision is made to permit the legal existence of both the rail corridor and any public roads it crosses by way of a bridge, by closing only those levels (or strata) of road required for operating the railway.

Clause 6 retains a degree of public control consistent with the controls on existing corridor land held by Queensland Rail.

Clause 7 gives access to the land to Queensland Rail immediately the Bill is assented to. This is to prevent any delay in the construction program.

Clause 8 enables changes made to land tenure and interests in the affected land to be recorded by the registrar of titles.

Clause 9 permits regulations to be made particularly to allow survey work to determine exactly the areas of land affected, in order to allow precise areas to replace the approximate areas shown in the schedules.

Clause 10 is included to overcome a minor drafting error in the *Transport Infrastructure Act 1994*. Powers and functions identified in Section 136 of that Act are available under the *Building Act* not the *Building Code*.

Clause 11 causes the Act to expire after seven years, to avoid the costs of reprinting beyond then while ensuring adequate time to resolve any matters taken to the courts as a result of the Bill.