TRANSPORT LEGISLATION AMENDMENT BILL 1999

EXPLANATORY NOTES

GENERAL OUTLINE

OBJECTIVES OF THE LEGISLATION

The objective of the Transport Legislation Amendment Bill 1999 is to provide for a number of amendments to a range of statutes administered by the Department of Transport and Department of Main Roads.

REASONS FOR THE BILL

To clarify under the *Transport Infrastructure Act 1994*, a number of powers to be used by the Minister or Chief Executives of the Department of Transport or Department of Main Roads particularly concerning air transport infrastructure, road works and management of public marine facilities and certain waters.

To amend the *Transport Operations (Marine Pollution) Act 1995* with respect to ship board waste management and recovery of expenses incurred by the Chief Executive following a pollution incident, as well as amendments to a definition used in the Act.

To amend the *Transport Operations (Passenger Transport) Act 1994* with respect to driver authorisation and operator accreditation, and with respect to fare evasion and other misconduct on vehicles, other than trains.

Minor amendments are made to the *Traffic Act 1949* and *Transport Operations (Road Use Management) Act 1995*.

ESTIMATED COSTS FOR GOVERNMENT IMPLEMENTATION

No costs are estimated for governmental implementation of these amendments.

RESULTS OF CONSULTATION

The proposed amendments have been supported.

CONSISTENCY WITH FUNDAMENTAL LEGISLATIVE PRINCIPLES

The *Legislative Standards Act 1992* defines fundamental legislative principles ("FLPs") as "principles relating to legislation that underlie a parliamentary democracy based on the rule of law".

The amendments depart from FLPs as follows:-

Limited access roads

Management of access between State-controlled roads and particular adjacent property

Road access works within State-controlled road

Person other than owner or occupier may also be bound by decision under S 52(1)

Annual levies imposed by the *Transport Infrastructure Act 1994*

Subject matter for waterway transport management plan

LIMITED ACCESS ROADS

The *Transport Infrastructure Act 1994* is to be amended by clause 17 of the Bill by replacement of SS 51 to 56 of that Act.

The Fundamental Legislative Principle

The legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review (Section 4(3)(a) *Legislative Standards Act 1992*).

The Departure

The new clause 17 replaces SS 51 to 56 with replacement legislative provisions associated with the review of the legislative regime dealing with accesses between adjacent properties and State-controlled roads with special provisions for limited access roads.

The new S 51C details the information to be included in the notice of a declaration of a State-controlled road or notice of a policy in relation thereto. This information includes the location where a policy can be inspected. The new S 51D however states that provided the original policy is not published in the gazette the changes that merely amend or repeal specific provisions for one or more particular properties need not be published in the gazette.

The Reason for the Departure

The changes to a policy affecting particular properties are not of such general importance that would warrant an advertisement in the gazette.

Changes to the policy which affected one or more particular properties would generally not be made on the initiative of the chief executive. The changes would result from a request by a property owner or occupier to change the policy as it affects their property. In such instances the property owner or occupier would be aware of the change to the policy. A prospective purchaser of a property would, on checking the gazette, become aware that the policy was subject to minor changes and could view the amended policy. Changes to the policy regarding one or more particular properties can be inspected at the location stated in the gazette notice. The notice will make it clear that the policy may be changed in a minor way without the revised policy being gazetted. Any change to the policy that a current owner or occupier was not made aware of, would be required to be gazetted. Also significant changes to the policy would be dealt with as replacing the original policy and a gazette notice would be required.

MANAGEMENT OF ACCESS BETWEEN STATE-CONTROLLED ROAD AND A PARTICULAR ADJACENT PROPERTY

The Departure

Section 52 provides for management of access between State-controlled roads (including limited access roads) and adjacent land.

As outlined in the definitions, land adjacent to a State-controlled road includes land which gains access by way of a registered easement to and from the State-controlled road.

On his own initiative or on the application of an owner of land adjacent to a State-controlled road, the chief executive has the power to determine, or vary, the basis of traffic movement between a State-controlled road and

adjacent land. It is envisaged that if a property abuts more than one State-controlled road, a single determination may address access arrangements to a number of State-controlled roads.

As an example a person with an interest in land would include a native title holder, an owner of freehold land, a lessee of leasehold land, or an occupier.

The determination of the chief executive could include the types of vehicles which may or may not use the means of access and their frequency of use (eg. 40 12 tonne truck trips per day for a quarry), or, even the prohibition of traffic at a particular point or along an entire frontage (or frontages).

Some examples of conditions which may be applied are included. The determination by the chief executive may specify the use, conditions and restrictions on the use of, a road access location and/or road access works, and the type and/or form of physical access works.

Physical access works may extend from inside the particular property to within the State-controlled road, to the traffic lanes of the road.

The approval of the access arrangement or part of the access arrangement may indicate that the approval expires at some future date or when some particular event occurs eg. when a planned roundabout is constructed nearby.

The chief executive may make his determination in response to an application for construction of a road access location or works, in response to a development application, or in response to an owner or person with an interest in the land seeking to, or having been directed to, have their access arrangements approved. Alternatively, he may make a determination on his or her own initiative.

The chief executive may require particular works to be removed within a reasonable stated time, thirty days is generally considered to be reasonable. However, if the safety of road users is threatened, a shorter stated time may be reasonable.

As per Schedule 2, a merits appeal lies against a determination by the chief executive in relation to access between a State-controlled road and particular adjacent land.

Any person adversely affected by this amendment is also entitled to judicial review of the decision of the chief executive.

This section affects the common law right of a person to enter on to land. Although this common law right can be affected by, in this instance, statutory reform of the law, this amendment to a person's common law rights should be noted.

The Reason for the Departure

The underlying reasons for affecting this common law right are safety and the efficient management of the road network that best contributes to the economic productivity of the State. A merits appeal lies against a determination by the chief executive in relation to access between a State-controlled road and particular adjacent land.

The *Judicial Review Act 1991* applies with respect to a determination by the chief executive providing further protection to any person affected by this amendment.

The current provisions of the *Transport Infrastructure Act 1994* provide the same statutory reform of the common law. The proposed provisions require that compensation be paid in all instances where the chief executive has acted on his or her own initiative. This represents a fairer compensation regime as the present scheme permits the chief executive to make a decision on his or her own initiative, which results in a complete prohibition of access to a property, and no compensation would be payable unless the access prohibited was previously approved.

ROAD ACCESS WORKS WITHIN STATE-CONTROLLED ROAD

The new clause 17 replaced SS 51 to 56 with legislative provisions associated with the review of the legislative regime dealing with accesses between adjacent properties and State-controlled roads with special provisions for limited access roads.

The Departure

The new S 52D clarifies that construction of road access works on a State-controlled road does not give the land owner or occupier any rights to the ownership of the works. This new clause also clarifies that regardless of the new S 52C, the chief executive may exercise their powers to change or remove works wholly within the State-controlled road without regard to those restrictions.

Pursuant to new S 52D(2), a decision pursuant to new S 52(1) can be amended without a person being affected by that amended decision being notified of that decision.

The Reason for the Departure

This section removes doubt associated with the effects of a decision made by the chief executive pursuant to new S 52(1). It is intended to clarify the effects of a decision pursuant to new S 52(1) rather than confirm new rights or obligations.

These rights and obligations are currently accepted practice.

This section clarifies that the chief executive has the power to upgrade the road works within the area of land that is designated as State-controlled road. Normally some form of public consultation would be performed prior to the performance of such works. This provision makes it clear that a decision under S 52 is not required to be considered or made (with respect to a particular property) provided that the property's boundary access works and on-site functionality are not affected.

Such works within the road reserve are specifically excluded with respect to payment of compensation. There is concern that if a person receives a S 52 notification in this instance, they may believe (wrongly) that they are entitled to some form of compensation. Should an agreement be in force which requires him to do so, the chief executive must notify the property own of changes in the road reserve which affect him or her.

PERSON OTHER THAN OWNER OR OCCUPIER MAY ALSO BE BOUND BY A DECISION UNDER S 52(1)

The new clause 17 replaced SS 51 to 56 with replacement of legislative provisions associated with the review of the legislative regime dealing with accesses between adjacent properties and State-controlled roads with special provisions for limited access roads.

The Fundamental Legislative Principle

The legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review (Section 4(3)(a) *Legislative Standards Act 1992*)).

The legislation has sufficient regard to rights and liberties of individuals depends on whether for example, the legislation is consistent with principles of natural justice (Section 4(3)(b) *Legislative Standards Act 1992*)).

The Departure

The new section 52F allows the chief executive to give a person other than the original owner and occupier a notice of the determination and therefore bind them by the determination. Appeals against the original determination do not apply to future owners and occupants nor other persons given a notice. Offences pursuant to new s 53 then apply to persons that have received such a notice. A new owner is entitled to compensation (as if they were the original owner) in accordance with SS 56 and 57, if a new determination is made pursuant to new S 52(1).

The Reasons for the Departure

This amendment is necessary to ensure once a chief executive has made a decision pursuant to S 52(1) the decision continues to apply to that land despite subsequent changes in ownership or occupation with respect to that land.

Under S 52E a prospective owner can apply to the chief executive to get a copy of the decision which they will be bound by.

Also there is nothing stopping a new owner making an application requesting that a new decision be made by the chief executive. This new decision would be appealable.

ANNUAL LEVY

The *Transport Infrastructure Act 1994* is to be amended by clause 21 of the Bill so that a railway manager must pay a levy prescribed under a regulation for each year of an accreditation.

The Fundamental Legislative Principle

Whether the Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly (Section 4(4)(b) *Legislative Standards Act 1992*).

The Departure

The new clause 21 authorises a levy to be prescribed under a regulation for each year of an accreditation.

The Reasons for the Departure

Although the levy is prescribed by regulation, the process of enacting subordinate legislation includes the requirement for a Regulatory Impact Statement to be prepared, pursuant to the *Statutory Instruments Act 1992*.

Therefore any regulation made by the Governor-in-Council is subject to disallowance by the Legislative Assembly and it is considered that this presents an appropriate degree of transparency and accountability which would only otherwise be achieved by prescribing in the Act detail of the levy. This would mean the flexibility of the levy to accommodate changing circumstances in rail management and operation would be unduly constrained requiring a Bill of Parliament to effect change.

CALCULATION OF A LEVY

The *Transport Infrastructure Act 1994* is to be amended by clause 30 of the Bill, by the insertion into schedule 1 of a new S 20 by allowing the chief executive to impose a levy on a person who has a tenure over boat harbour land managed by the chief executive as a contribution towards the dredging of, and the maintenance of, public marine transport infrastructure.

The Fundamental Legislative Principle

Whether the Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly (Section 4(4)(b) *Legislative Standards Act 1992*).

The Departure

The new clause 30 inserts a new S 20 into schedule 1 which will authorise the imposition of a levy on a person who has a tenure over boat harbour land managed by the chief executive as a contribution towards the dredging of, and maintenance of, public marine transport infrastructure.

The Reasons for the Departure

Although prescribed by regulation, the process of enacting subordinate legislation includes the requirement for a Regulatory Impact Statement to be prepared, pursuant to the *Statutory Instruments Act 1992.*

Therefore any regulation made by the Governor-in-Council is subject to disallowance by the Legislative Assembly and it is considered that this presents an appropriate degree of transparency and accountability which would only otherwise be achieved by prescribing in the Act detail of the levy. This would mean the flexibility of the levy to accommodate changing circumstances in public marine transport infrastructure management and operation would be unduly constrained requiring a Bill of Parliament to effect change.

SCHEDULE 1A—SUBJECT MATTER FOR WATERWAY TRANSPORT MANAGEMENT PLANS

The *Transport Infrastructure Act 1994* is to be amended by clause 31 of the Bill which inserts a new schedule 1A into the Act. The new schedule details the subject matter for a Waterway Transport Management Plan. Section 7 of that schedule states that a levy can be placed on marina owners, as a contribution towards the dredging of, and the maintenance of, public marine transport infrastructure.

The Fundamental Legislative Principle

Whether the Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly (Section 4(4)(b) *Legislative Standards Act 1992*).

The Departure

The new clause 31 inserts a new schedule 1A into the Act. The new schedule will authorise the imposition of a levy on a marina owner as contribution towards the dredging of, and maintenance of, public marine transport infrastructure.

The Reasons for the Departure

Although prescribed by regulation, the process of enacting subordinate legislation includes the requirement for a Regulatory Impact Statement to be prepared, pursuant to the *Statutory Instruments Act 1992.*

Therefore any regulation made by the Governor-in-Council is subject to disallowance by the Legislative Assembly and it is considered that this presents an appropriate degree of transparency and accountability which would only otherwise be achieved by prescribing in the Act detail of the levy. This would mean the flexibility of the levy to accommodate changing circumstances in waterway transport management plans would be unduly constrained requiring a Bill of Parliament to effect change.

NOTES ON CLAUSES

PART 1—PRELIMINARY

Clause 1 states the short title of the Act is to be the *Transport Legislation Amendment Act 1999*.

Clause 2 states how and when this Act commences.

PART 2—AMENDMENT OF *TRAFFIC ACT 1949*

Clause 3 states this part amends the *Traffic Act 1949*.

Clause 4 omits Part 4. This part provided for passenger transport fare and misconduct matters which will now be provided for in the *Transport Operations (Passenger Transport) Act 1994*. This amendment is complementary to clause 65.

Clause 5 omits S 62 which enabled part of a penalty recovered in relation to fare evasion offence to be remitted to an aggrieved person. This amendment is complementary to clauses 4, 65 and 66.

PART 3—AMENDMENT OF *TRANSPORT INFRASTRUCTURE ACT 1994*

Clause 6 states this part amends the *Transport Infrastructure Act 1994.*

Clause 7 states that the long title of the *Transport Infrastructure Act 1994* is amended by inserting the words, "and related matters".

Clause 8 amends S 2(2) of the *Transport Infrastructure Act 1994* by inserting a new objective (f) and (g) concerning air transport infrastructure and public marine transport infrastructure.

Clause 9 amends S 9 to reflect the responsibility that rests with the chief executive for ensuring government supported transport infrastructure construction, maintenance and operation is efficient, of affordable quality and cost effective. The amendment removes the same responsibilities from the boards of Queensland Rail and each port authority, in order that these transport government owned corporations (transport GOCs) operate under the same obligations as others in the same market. However, independent of this legislation, these transport GOCs boards still have an organisational responsibility to achieve outcomes of efficiency, affordable quality and cost effectiveness, as part of their commercial charter.

Clause 10 amends S 10 to reflect changes made to S 9 by clause 6, by omitting Queensland Rail's and each port authority's annual report requirement to disclose the way in which effect has been given to S 9.

Clause 11 inserts a new chapter 4A into the *Transport Infrastructure Act 1994*. The new chapter details the powers of the chief executive with respect to air transport infrastructure.

Clause 12(1) omits the definition "means of access".

Clause 12(2) replaces "sugar tramways" with "cane railways", to be consistent with the terminology used within the industry.

Clause 12(3) clarifies that "pipes" and "tanks" as ancillary works and encroachments encapsulates only water tanks and pipes.

Clause 12(4) expands the list of ancillary works and encroachments to include "tanks" and "pipes". This includes all tanks and pipes not captured in "water tanks" and "water pipes".

Clause 12(5) replaces "means of access" with "road access works", as part of a review of the legislative regime dealing with accesses between adjacent properties and State-controlled roads.

Clause 12(6) expands the list of ancillary works and encroachments to include "pumps and bowsers".

Clause 12(7) incorporates a definition for "road access works", as part of a review of the legislative regime dealing with accesses between adjacent properties and State-controlled roads. Examples are given of the two categories of road access works.

Clauses 13(1) and *(2)* allow for the insertion of a provision requiring that any approval of road access works cannot be given unless a current approval exists for a permitted road access location for those road access works.

Clauses 14(1) and *(2)* allow the situations to be expanded when the chief executive may intervene concerning ancillary works and encroachments.

Clause 15 is administrative in nature in that it amends a legislative heading to reflect the decisions arising from the review of the legislative regime dealing with accesses between adjacent properties and State-controlled roads.

Clause 16(1) removes the definition for "approved means of access", which is a term no longer used as a result of the review of the legislative regime dealing with accesses between adjacent properties and State-controlled roads.

Clause 16(2) inserts definitions for new terms associated with the review of the legislative regime dealing with accesses between adjacent properties and State-controlled roads.

Clause 17 deals with replacement legislative provisions associated with the review of the legislative regime dealing with accesses between adjacent properties and State-controlled roads, with special provisions for limited access roads. Attachment A shows a geographical representation of the new scheme. Details follow below:

Section 51 deals with limited access roads, which are State-controlled roads that are subject to special requirements concerning access to and from the road.

Sections 51(1) and (2) provides for the chief executive to declare, by Gazette notice, a State-controlled road to be a limited access road and for a policy concerning access to be developed and applied. A road-specific access policy will be required to be developed with each declaration of a limited access road. This is the only distinguishing feature about limited access roads except that it is an offence to construct or change a driveway without an approval under S 52 - (refer S 51G).

Section 51(3) permits the chief executive to develop a policy for limited access roads which have been previously declared and which do not have a policy.

Section 51(4) requires that once notice of a policy has been gazetted or a new limited road declared, the chief executive must apply the policy and ensure there is always a policy. It also gives the chief executive the power to replace a policy by way of gazette notice under S 51C. It also allows minor changes without giving notice, provided the policy has not been gazetted.

Section 51A provides for the notification to local governments of proposals concerning limited access roads which could affect them and allows for subsequent submissions by the local governments to the chief executive.

Section 51B sets out information to be included in Gazette notices under S 51(1) including the reasons for the determination to limit access to the particular road, and the appeal rights for any person affected.

Section 51C details the information to be included in gazette notices concerning a declaration, notice of a policy or replacement of a policy. If the policy is not published, this information is to include the location where a policy can be inspected. Appeal rights for any person affected by the policy are included.

Section 51D details how policies maybe amended. Major changes or where individual property owners are not notified of a change will require replacement of a policy under S 51C.

Section 51E requires that the declaration must be described in sufficient detail to allow the particular limited access road to be identified.

Section 51F requires that details of such declarations are to be advertised in a local newspaper.

Section 51G sets out offences with respect to limited access roads. The offence prohibits construction or alteration of a driveway to and from a limited access road without approval.

Section 52 provides for management of access between State-controlled roads (including limited access roads) and adjacent land.

As outlined in the definitions, land adjacent to a State-controlled road includes land which gains access by way of a registered easement to and from the State-controlled road.

On his own initiative or on the application of *a person with interest in* land adjacent to a State-controlled road, the chief executive has the power to determine, or vary, the basis of traffic movement between a State-controlled road and adjacent land. It is envisaged that if a property abuts more than one State-controlled road, a single determination may address access arrangements to a number of State-controlled roads.

As an example a person with an interest in land would include a native title holder, an owner of freehold land, a lessee of leasehold land, or an occupier.

The determination of the chief executive could include the types of vehicles which may or may not use the means of access and their frequency of use (e.g. 40 12 tonne truck trips per day for a quarry), or, even the prohibition of traffic at a particular point or along an entire frontage (or frontages).

Some examples of conditions which may be applied are included. The determination by the chief executive may specify the use, conditions and restrictions on the use of, a road access location and/or road access works, and the type and/or form of physical access works.

Physical access works may extend from inside the particular property to within the State-controlled road, to the traffic lanes of the road.

Section 52(3) details that the approval of the access arrangement or part of the access arrangement may indicate that the approval expires at some future date or when some particular event occurs eg. when a planned roundabout is constructed nearby.

The chief executive may make his determination in response to an application for construction of a road access location or works, in response to a development application, or in response to an owner or person with an interest in the land seeking to, or having been directed to *(under S 52G)*,

have their access arrangements approved. Alternatively, he or she may make a determination on his or her own initiative.

The chief executive may require particular works to be removed within a reasonable stated time, thirty days is generally considered to be reasonable. However, if the safety of road users is threatened, a shorter stated time may be reasonable.

Section 52A gives the chief executive the power to require additional information from an applicant, so that he or she can make their decision.

As per Schedule 2, a merits appeal lies against a determination by the chief executive in relation to access between a State-controlled road and particular adjacent land.

Section 52B gives the chief executive the power to require, as part of an access approval under S 52, an applicant to construct, and/or maintain or contribute to the cost of construction or maintenance of specific road access works in certain circumstances.

Section 52C restricts the situations when the chief executive may make a determination in relation to an approved access arrangement, on his own initiative. The situations where this is permissible is if the road access location or the road access works or the use of either of these is presenting a traffic hazard, reducing safety, affecting traffic operations or is obstructing road works or work involving public utility plant or ancillary works and encroachments. Action may also be taken in an emergency. In addition, the cumulative effects of (for example) safety and operational effects etc. on a particular access, and/or the safety effects of number of accesses located along the road may be considered when determining if the chief executive can act on his or her own initiative.

Section 52D clarifies that the construction of road access works on a State-controlled road does not give the land owner or occupier any rights to the ownership of the works unless there is an agreement to the contrary. This provision also clarifies that regardless of the restrictions outlined in S 52C as to when the chief executive may make a determination on his own initiative, the chief executive may exercise his or her powers to change or remove works wholly within the State-controlled road (meaning the area of land) without regard to these restrictions.

Neither consideration nor determination need to be made where road access works (which were required to be constructed a part of the approval) are removed or changed, unless the functionality of the permitted road

access location is substantially affected, or there is some agreement in force to the contrary.

Section 52E requires that an owner and occupier and the applicant to be given written notice of a determination made under S 52, and outlines the information to be included in the notice.

This section also requires the chief executive to provide a person who has an interest in particular land with a copy of the current S 52 determination regarding access to the property. This is to allow new or intended purchasers to have the necessary information concerning compensation under SS 56 and 57, and offences under S 53.

Section 52F allows the chief executive to give a person other than the owner, occupier and applicant, a notice of the determination and therefore bind them by the determination. This is intended to restrict the actions of a third party that accesses the land (such as say a rubbish removal contractor) and ensure that they comply with the intended safe operation of the access arrangements. Appeals against the original determination do not apply to future owners and occupants nor other persons given a notice. However, a future owner is able to apply under S 52 for a new determination to be made. Offences under s53 apply to persons that have received such a notice. A new owner is entitled to compensation (as if they were the original owner) in accordance with SS 56 and 57, if a new determination is made under S 52(1).

Section 52G allows the chief executive to direct the owner or occupier (or both) of a property which does not have a S 52 determination in force to apply to have the access arrangements approved (subject to any necessary changes). On receipt of the direction the person must then apply under S 52 and/or discontinue accessing the State-controlled road at any location. An offence is committed if the direction is not complied with.

Section 53 provides for offences for obtaining access to a State-controlled road. Offences only apply to any person given a notice, and present and future owners with a development approval which applies to future owners.

Section 54 provides for action to be taken to prevent access where an offence is being or attempting to be committed under S 53. Any costs of taking that action may be recovered by the chief executive from the person obtaining or attempting to obtain illegal access, or contravening a condition etc.

Section 55 provides that, where compensation is potentially payable by the chief executive as specified in S 56 and S 57, he or she may arrange for the provision of alternative access arrangements and, by negotiation, contribute to its cost. The arrangements may include alteration to on-site buildings and parking facilities to restore the same functionality to the land. Such alternative access may be to an alternative location on the State-controlled road, or, to an adjoining local government road, which would require the approval of the local government, or by way of negotiated access easement through adjoining property.

Section 56 provides for compensation to be paid in certain circumstances where both parties could not agree on an alternative access arrangement or the chief executive determined that provision of such alternative is prohibitively expensive.

Table 1 below shows the situations when compensation is payable by combining SS 56 and 57.

Table 1—circumstances where compensation is payable

	Effect of new decision		
	Column (a)	**Column (b)**	**Column (c)**
Circumstances associated with application	Property effectively becomes landlocked (s56(1)(a))	Permitted road access location and access to SCR prohibited (s56(1)(b))	S52 Decision in force and change to substance of previous decision which affects on site functionality (excluding (a) and (b)) (s56(2))
Not on chief executive's initiative:			

1. In connection with material change of use or reconfiguring of a lot (s57(4)(a) and (b)(i)(A))	no	no	no
2. In connection with development which has had or is likely to have a significant impact on traffic safety or efficiency on the State-controlled road and the decision took this into account (s57(4)(b)(i)(B))	yes	no	no
3. Other instance not on chief executive's initiative (s57(4)(c))	yes	yes	no
On chief executive's initiative	yes	yes	yes

The basic formula for compensation is unchanged and is based on the diminution in value of the property.

This section makes it clear that compensation is not payable for loss of functionality to the extent that it may relate to access to a particular traffic stream, nor to the works in the State-controlled road. For example, if a service road is constructed in front of a property, and access is provided to this road instead of (as was previously) gained directly to highway traffic lanes, if no other changes are made to the access arrangement to affect the functionality on-site, then no compensation would be payable. This is the case even if the owner or occupier of the property paid for the construction of the access ramp which connected his or her driveway to the highway traffic lanes (if there is no agreement to the contrary).

Compensation would apply to the extent that functionality on-site is required to be restored. However, if changes to the State-controlled road and abutting roads result in changes to the external access arrangements, (for example a more circuitous route is required to access the property), then there would be no compensation for this component of the changes.

Compensation may be claimed by an owner of adjacent land, a lessee of leasehold land, a native title holder, an occupier of adjacent land or both.

The total amount of compensation for the diminished value of the property would be divided between the owner and occupier in proportion to the diminution in value of the property which each one incurs. In this way there is no doubling up of payment of compensation.

As per Schedule 2, a merits appeal lies against a determination by the chief executive concerning the amount of compensation.

Clause 18 deals with amendments to S 57. Where an access arrangement has not been approved there is only one situation where compensation would be payable. That is where a property becomes effectively landlocked and the determination (under S 52) which prohibits all access does not take into account a development which involves a reconfiguration of a lot or a material change in use of the property. Compensation is not payable if a previous determination in force caused the property to be landlocked. Once compensation is paid in this instance it will not be paid again with respect to the same property.

In all other cases, there must be a S 52 determination in force (ie. a permitted road access location for access onto the State-controlled road) and a new determination must be made. The substance of the two decisions would be compared.

Where a new determination is made in response to an application (either a development application, a separate S 52 application made in connection with a development application), or a S 52 application submitted because of a direction under S 52G, and the decision takes a development involving reconfiguration of a lot, or a material change in use of the property or other development which may adversely affect the safety or operation of the State-controlled road, into account, provided there is an alternative way to access the property (e.g.. via a side road), the new determination may specify that all access to the State-controlled road may be prohibited. No compensation would be payable in this instance.

Where a new determination is made in response to an application by a person, whether or not it is associated with a development of any kind, the new determination may change the substance of the old determination (other than making the property landlocked or its getting all access via an alternative road or way) and no compensation would be payable.

As an example of how this section applies, if the chief executive is referred a development under the Integrated Development Approval System (IDAS) process, the chief executive's response could be taken to be equivalent to a S 52 determination in connection with that development (see s57A). This assumes he has adequate information on which to base his decision.

Once relevant powers with respect to access are incorporated into the *Integrated Planning Act 1997* (IPA), if the chief executive does not respond to such an application (and the chief executive is a concurrence agency under IPA), the proposed access arrangements are taken for the purposes of compensation to be the approved access arrangements under S 52 (this assumes that the development proceeds). A concurrence response about access need not be restricted in its contents by S 52.

Also, if a development is not referred to the chief executive as a concurrence agency then the chief executive's response to a separate S 52 application by the owner or agent is taken to be a determination in connection with the development.

If a development is not referred to the chief executive as a concurrence agency, and the access arrangement for the development is not the subject of a S 52 application, there is no determination in connection with the development and therefore the access arrangements are not approved. Section 31 prohibits roadworks (such as road access works and including boundary works) without approval.

Consequently, if the chief executive becomes aware that access arrangements are unapproved, he may direct the owner or occupier under S 52G, to obtain access approval. The decision is taken to be in connection with, or influenced by, the development.

For this section, the different types of development (eg. material change of use etc.) have the same meanings as under IPA.

Also, no separate compensation is payable where the land is acquired by agreement or resumption. As per Schedule 2, a merits appeal lies against a determination not to extend the time for claiming compensation.

Clause 19 inserts new S 57A which is included to give developers some security over their access arrangements. If a concurrence response to a development approval includes conditions about access, then for the purpose of the effect of future S 52(1) decisions on compensation, the response is taken to be a S 52 decision.

Clause 20 amends the term "sugar railway" to "cane railway" in S 75, in accordance with the clause 12 changes to the definition of ancillary works and encroachments.

Clause 21 inserts a new S 84A providing for the payment of a levy by a railway manager. The levy is prescribed pursuant to a regulation, and must be paid for each year of an accreditation.

The chief executive must give the railway manager or railway operator written notice of the amount of the levy.

Clause 22 amends S 104 to change procedures concerning medical examinations. The section allows an authorised person for a railway to require an employee, who was involved in a rail incident, to undergo an alcohol test, a drug test or a medical examination within 2 hours of the incident. The time limit for a medical examination will be amended to within a reasonable time after the authorised person forms the reasonable suspicion the employee was involved in the incident.

Clause 23 omits SS 105 to 108 inclusive, from the *Transport Infrastructure Act 1994*.

Clause 24 amends the definition of miscellaneous transport infrastructure by excluding air transport infrastructure and public marine transport infrastructure from that definition.

Clause 25 inserts Chapter 8B entitled Public Marine Transport Infrastructure into the *Transport Infrastructure Act 1994.*

Section 187B allows the Governor-in-Council to appoint a manager of a public marine facility by regulation with the consent of the person to be appointed. The meaning of person is meant to be as wide as possible as is indicated in the examples provided. The appointment may be subject to such conditions as the Governor in Council considers appropriate at the time given the prevailing circumstances. A condition may include the payment to the chief executive of a fee for each mooring located in a State provided boat harbour facility. Conditions of appointment may be changed with the consent of the manager except the consent of the manager is not required where the fee payable to the chief executive for each mooring located in a State provided boat harbour is amended.

This fee provision is intended to cover existing arrangements where the fee for each mooring can be levied on the manager direct, or where the manager does not control the area direct, on the tenure holder of the area involved, eg. a lessee of a *Land Act 1994* lease.

Section 187C provides for who is responsible for maintaining a public marine facility and who is liable in adverse civil proceedings where some form of accident has occurred which is associated with the facility.

Particularly:

subsection (1) provides that a manager is responsible for maintaining the public marine facility.

subsection (2) provides that for the purposes of all adverse civil proceedings in relation to death, injury, damage or loss that the facility is taken to be solely owned, occupied and under the management, control and responsibility of the manager.

However, subsection (3) also describes circumstances whereby subsection (2) does not apply. An example may be when a facility is constructed (other than by the Manager) with a structural defect. The facility is then subject to the appointment of a Manager. A civil action arises as a result of the structural defect. Without subsection (3) the Manager may be unfairly assumed to be responsible.

Section 187D provides for the management of a public marine facility by the chief executive. The chief executive has all the powers necessary to perform the function of managing a public marine facility to ensure the effective and efficient operation of the facility provided the power is consistent with any conditions of the appointment as manager. This includes the power to limit or prohibit the use of a facility. This section also provides that where no manager has been appointed to manage a public marine facility, the chief executive is taken to be the manager until someone else is appointed the manager under section 187B.

Section 187E provides for the management of a public marine facility by a local government. A local government has all the powers necessary to perform the function of managing a public marine facility to ensure the effective and efficient operation of the facility provided the powers are consistent with any conditions of the appointment as manager. This includes the power to limit or prohibit the use of a facility.

Section 187F provides for the management of a public marine facility by a port authority. A port authority has all the powers necessary to perform the function of managing a public marine facility to ensure the effective and efficient operation of the facility provided the powers are consistent with any conditions of the appointment as manager. This includes the power to limit or prohibit the use of a facility.

Section 187G provides for the management of a public marine facility by a person other than the chief executive, a local government or a port authority. A person has all the powers of a natural person to manage a public marine facility to ensure the effective and efficient operation of the facility provided the powers are consistent with any conditions of the appointment as manager. However, a person's ability to limit or prohibit the use of a facility is limited to that provided in a regulation.

Section 187H provides that a manager must act in accordance with any conditions imposed on the manager's appointment. Any action taken by a manager in contravention of any condition of appointment is not valid or enforceable action.

Section 187I allows a manager of a public marine facility to impose fees for the use of the facility whether as a condition of an approval to use the facility or otherwise. The manner in which fees may be imposed can include, but not limited to, referring to ships using the facility or goods or passengers loaded, unloaded or transhipped to or from a ship using the facility or vehicular access to the facility. However, a fee cannot be imposed for the genuine, transient recreational use of certain public marine facilities, namely boat ramps, jetties, landings or pontoons. This is meant to cover short term use of such facilities for recreational purposes and not commercial purposes. Usually a sign at a facility will indicate the length of time a person is permitted to moor at the facility for recreational purposes without charge. This section ensures the continuation of any existing charging arrangements for public marine facilities.

Section 187J allows a manager to resign an appointment under S 187B but only with the consent of the Governor-in-Council.

Section 187K allows a manager to remove certain improvements to a public marine facility within 3 months of when a manager's resignation has been accepted by the Governor in Council or within 3 months of a manager's appointment being revoked, otherwise the improvements become the State's property. The revocation of the appointment of a manager is at

the discretion of the Governor-in-Council. Also, improvements can only be removed that do not form an integral part of the public marine facility and been added to the facility by the manager.

Section 187L provides that where there is any inconsistency between a regulation under this Act and an action taken under this Part by a manager, the regulation prevails to the extent of the inconsistency. This includes a regulation under this Act prevailing over a by-law or local law of a local government or a Board resolution of a port authority.

Part 2 of the new chapter includes ss187M to 187R dealing with management arrangements for use of waterways and associated infrastructure by water traffic. The chief executive receives certain functions pursuant to the part. These functions include planning and management functions for waterways traffic and use.

These functions are performed by way of waterway transport management plans which must be approved by the Governor and are subordinate legislation.

The new clauses detail consultation requirements for a management plan and consultation requirements prior to the introduction of a management plan for an area.

Also, new s187R states that if there is any inconsistency between a management plan and another law the other law prevails to the extent of the inconsistency.

Clause 26 inserts a new S 240A of the *Transport Infrastructure Act 1994* which deals with expiries under that part.

Clause *27* omits and replaces the heading to Chapter 10, part 4, division 5 of this Act.

Clause 28 deals with transitional provisions concerned with access and ancillary works and encroachments. Details follow.

Section 263 provides for limited access roads and access-limited roads which were declared as such either before the current amendments or the current legislation, and their associated policies, to become limited access roads under the amended s51.

Section 264 provides for decisions (which are still in force) made under repealed s52 to become decisions under the new provisions, until they expire, are revoked or are changed.

For the provisions of previous decisions to be understood they will have to be considered in light of the new terms and provisions.

As an example in many cases the term "approved means of access" will encompass both new terms:- "permitted road access location" and the associated "road access works".

As, under the new provisions, there are circumstances where compensation is paid if an access arrangement is not an approved access arrangement, (which is significantly different from the repealed provisions) the limitations and prohibitions shown in limited access plans, (which stem from provisions in the previous Act) gazettals etc., must be recognised as decisions in force under S 52(1). Otherwise there is the possibility that compensation for prohibitions of access to land (previously prohibited under a declaration of limited access) for which compensation has already been paid or for which the period for claiming compensation has long expired.

Section 265 provides for decisions (which are still in force) made under repealed s47 to become (for the purposes of compensation) decisions under S 52(1).

Clause 29 inserts new Section 266 which provides for the transitional arrangements from the previous legislative arrangements under S 140 of the former *Harbours Act 1955* to the new legislative arrangements under Chapter 8B (Public Marine Transport Infrastructure). It is intended that there be no change to the existing management arrangements of public marine facilities upon the commencement of Chapter 8B, ie. if a person is managing a public marine facility (currently referred to as wharf or other harbour works under S 140 of the former *Harbours Act 1955*) before the commencement of Chapter 8B, that person will continue to manage the facility after the commencement of Chapter 8B. This is also meant to apply to any existing by-law, local law or Board resolution of a port authority about a public marine facility which are to remain in force until an action under Chapter 8B changes the by-law, local law or Board resolution about the facility.

Clause 30 amends schedule 1 in the *Transport Infrastructure Act 1994* by omitting item 8 and inserting sections s 19, 20, 21, 22 and 23 dealing with the calculation of a levy, the date by which it must be paid, and payment by instalments.

Clause 31 inserts a new schedule 1A into the *Transport Infrastructure Act 1994*, which details, for the purposes of S 187Q what matters may be placed in a waterway transport management plan.

Clause 32 amends schedule 2 in the *Transport Infrastructure Act 1994* by amending the heading to “Reviews and Appeals”, removing the review for S 54 and inserting new S 51(1) and S 51 into the list of appealable decisions listed in that schedule.

Clause 33 amends schedule 3 (Dictionary) in the *Transport Infrastructure Act 1994* inserting into that Dictionary new terms required as a result of these amendments.

PART 4—AMENDMENT OF THE *TRANSPORT OPERATIONS (MARINE POLLUTION) ACT 1995*

Clause 34 states that Part 3 of this Act amends the *Transport Operations (Marine Pollution) Act 1995*.

Clause 35 inserts a new S 55A which details if a ship requires a Shipboard waste management plan, and the maximum penalties inflicted on the ship's owner and master if a ship which requires a shipboard waste management plan does not infect have such a plan, or is not fitted with the equipment necessary to implement such a plan.

Clause 36 amends S 111 of the *Transport Operations (Marine Pollution) Act 1995* by further defining "discharge expenses".

Clause 37 amends S 115 of the *Transport Operations (Marine Pollution) Act 1995* by amending circumstances upon which claims on security pursuant to that section can be made.

Clause 38 amends schedule 3 of the *Transport Operations (Marine Pollution) Act 1995* by inserting a definition of damage into that schedule.

PART 5—AMENDMENT OF THE *TRANSPORT OPERATIONS (PASSENGER TRANSPORT) ACT 1994*

Clause 39 states this part amends the *Transport Operations (Passenger Transport) Act 1994*.

Clause 40 amends S 14 to clarify the operator's responsibility to comply, and their responsibility to ensure that their drivers comply, with an Act or a provision of an Act that promotes passenger safety or customer service. It follows that this responsibility extends to provisions of the Transport Operations (Passenger Transport) Standard 1995.

Clause 41 inserts a new S 22A which applies when proceeding for offences against the Act. This section provides that evidence that person is an operator can be established by showing that the person is involved in the provision of a public passenger service and that the person has operator accreditation. This section does not limit the matters that can be offered as evidence that a person is an operator. This new section is meant to address difficulties sometimes faced when proceeding with operator offences against the Act.

Clause 42 amends S 26 to clarify that the standards made for driver authorisation can require drivers to comply with an Act or a provision of an Act when that compliance would promote passenger safety or customer service.

Clause 43 inserts a new S 29A enabling a scheme to be administered by regulation wherein restricted driver authorisations can be issued by operators to their respective drivers. Restricted driver authorisation is a form of driver authorisation which will be restricted by regulation in relation to the scope of its application. Restricted driver authorisation will have validity only when held by a driver providing services for the specific operator who granted that authorisation. It is proposed that regulation will prescribe the types of public passenger services in which restricted driver authorisation can be used.

Clause 44 amends S 39 to identify that in addition to the other services already stated, service contracts can be entered into for the provision of long distance scheduled passenger services. Service contracts for long distance scheduled passenger services had previously been enabled through regulation. Although the section has also been restructured to overcome prior duplication in wording, the effect of the section is unchanged.

Clause 45 inserts a new S 42A which provides that service contracts will be required to provide scheduled ferry services in specific areas that may be stated by the chief executive. Contracts can be used to ensure minimum service levels and approved government subsidised concession fares.

Clause 46 amends S 43 and is complementary to clause 44. Section 43 prohibits a person who does not hold an appropriate service contract, from providing a scheduled ferry service, when a service contract has been declared necessary for the provision of that particular service under the new S 42A.

Clause 47 deletes the reference in S 44 to S 53. This complements the amendment in clause 49.

Clause 48 amends S 46 so that holders of ferry service contracts or prescribed school service contracts are excluded from the mandatory midterm reviews applicable to operators of public passenger services provided under service contracts. The review process prescribed under s46 is not appropriate to ferry services or prescribed school service contracts.

Clause 49 replaces S 48 to clarify that, dependent upon the chief executive's approval, contract holders may transfer both all or some of their future rights and liabilities under a contract. The transfer of some of the future rights and liabilities becomes a new service contract but with the term of the new contract expiring at the same time as the expiry of the original contract's term.

Clause 50 deletes S 53. S 53 requires the compulsory inclusion in school service contracts of a condition about contract termination. In practice, this condition is not appropriate for inclusion in all contracts, and when the condition does have relevance it appears alongside a number of other conditions having similar intent but which are not referred to in legislation.

Clause 51 amends the heading for Chapter 6, part 2, division 2, in order to better reflect the division's content.

Clause 52 amend sS 56(1) and refers to the entitlement granted to existing operators which gives them a first opportunity to offer for new contract. This amendment clarifies that this entitlement extends to operators who are providing an existing service in part of the area to be contracted. This amendment reflects current practice and clarifies existing rights.

Clause 53 amends S 57 and applies if an offer made under the entitlement provided for in S 56 is only substantially acceptable. The amended section clarifies that the chief executive can defer inviting the public offers for a contract when the chief executive considers that negotiation with an existing operator may produce an acceptable offer.

Clause 54 amends S 60 and allows a faster administrative process to be applicable to the amendment of prescribed school service contracts as compared to other service contracts.

Clause 55 provides that S 62 does not apply to the offer of new prescribed school service contracts. Section 62 provides for entry into new service contracts but is inappropriate with regard to prescribed school service contracts.

Clause 56 inserts a new division providing for entry into prescribed school service contracts. Matters regarding contracts for school services had largely been dealt with in generic provisions for service contracts. However this had led to inappropriate administrative requirements. The establishment of provisions to deal solely with prescribed school service contracts is proposed in order to improve administrative efficiency.

The new division does not grant any retrospective benefits nor impose any retrospective obligations. It does however reiterate the intent of division 2 provisions with regard to the entitlement of existing operators to be invited to make first offers on new contracts. Operators satisfactorily providing part or all of a service for which a contract is to be entered will have this entitlement. In addition if a school is being serviced by one or more operators and a new prescribed school service contract is proposed for a new service to the school then the chief executive may choose to invite all of those operators currently providing services to the school to offer for the new contract before any invitation to the public need be given.

Clause 56 also provides for when public offers may be invited. The chief executive can defer inviting public offers if a substantially acceptable offer is received from an existing operator responding to an invitation to make a first offer, if the chief executive considers an acceptable offer may be negotiated. Section 59 in Division 2 applies to prescribed school service contracts and provides the matters to be considered by the chief executive when determining the acceptability of a contract offer.

Clause 56 also enables the chief executive when inviting a public offer to additionally solicit offers from specific operators or other persons.

Clause 57 amends S 74. A technical error in the wording of subsection 74(4) is corrected, subsection 74(5) is relocated as the new section 74AA and subsection 74(6) is relocated to the new S 74AB provided for in clause 58.

Clause 58 inserts a new S 74AB providing for prohibitions on the use of taxis. Taxis are prohibited from providing any public passenger service in a taxi service area for which they are not licensed. This prohibition prevents taxis from picking up passengers or commencing charter journeys or tours in taxi service areas for which they are not licensed under a taxi service licence. However this prohibition does not extend so far as to prevent a passenger journey to be completed. Furthermore this prohibition does not stop a taxi driver taking a passenger into another taxi service area, and then waiting for the passenger and then continuing the journey elsewhere or making a return journey, on the condition that the taxi is used to provide any other public passenger service including a taxi service during any waiting time. For example a passenger may travel from Brisbane to the Gold Coast, disembark and go shopping, then return to the taxi and travel elsewhere. However the taxi cannot be used for other taxi business during period that the original passenger is shopping.

Clause 59 replaces S 100 and provides for the issue of written directions to comply with provisions of the Transport Operations (Passenger Transport) Standard 1995. Directions to comply can be issued so as to be effective immediately from the time of issue or from a stated date at least 5 working days after the date of issue. Every failure to comply with the direction within a period of three years is a separate offence. Directions issued with an immediate effect can be issued only with regard to specified safety related standards.

Clause 60 amends S 119 to clarify the protection from liability of an authorised person for a railway or a person acting under an authorised person's direction. Certain authorised persons for a railway, appointed under this Act, have powers to investigate serious rail incidents under the *Transport Infrastructure Act 1994*. In certain circumstances, these authorised persons may request assistance from another person to help deal with a situation. The amendment ensures that when working under a power of another act, these persons will not be civilly liable for an act done, or omission made, honestly and without negligence.

Subclause (2) expands "employed" by a railway manager or operator in S 119(3) to include an authorised person for a railway, who a railway manager or operator has engaged as an agent or a contractor, or who is the agent's or contractor's employee. Under subsection (3), the civil liability of

an authorised person employed by a railway manager or operator attaches to the railway manager or operator. The default for all other authorised persons, attaches the civil liability to the State.

Clause 61 amends S 129 so that driver's licences are included within the documents that an authorised person may require certain persons to produce. This will enable authorised persons to verify the identity of persons claiming to hold driver authorisations. Driver authorisation documentation does not include photographic identification.

Clause 62 amends S 130 by expanding the offence for a person to give false or misleading information, to include giving this information to an authorised person for a railway.

Clause 63(1) amends S 131 by extending the offence for a person to give a document containing information that person knows to be false, misleading or incomplete, to include giving the document to an authorised person for a railway.

Subclause (2) extends the meaning of "document" within the section to include a report under this or another Act.

C*lause 64* amends S 135 by expanding the offence for a person obstructing an authorised person, to include obstructing an authorised person for a railway in the exercise of a power under this or another Act. "Obstruct" is defined in the dictionary of the Act to include abuse, hinder, insult, resist, threaten or attempt to obstruct.

Pursuant to S 136 a person must not pretend to be an authorised person or an authorised person for a railway.

Clause 65 amends S 140 to remove an uncertainty about a cross-reference. The amendment will allow an authorised person for a railway to remove a person, from a railway or train, found committing an offence against either S 144 (Interfering with railway) or S 146 (Trespassing on railway) of the *Transport Infrastructure Act 1994.*

Clause 66 inserts a new chapter 11A which has regard to fare evasion and misconduct on public passenger vehicles other than trains. This chapter is a consolidation of passenger transport fare and conduct provisions contained in S 30 of the *Traffic Act 1949* and in SS 45 to 46 of the Transport Operations (Passenger Transport) Regulation 1994. The previously mentioned corresponding provisions will be repealed.

Clause 67 also inserts a new S 154A which provides that part of a fine or penalty recovered for a fare related offence can be remitted to the person aggrieved by the commission of the offence. For example if a penalty is recovered in relation to fare evasion for a taxi journey then some of the penalty recovered can be remitted to the taxi driver who incurred the fare revenue loss. This section replaces the similar S 62 of the *Traffic Act 1949* while extending the scheme to include penalties paid under infringement notices.

Clause 68 amends S 161 to clarify that declarations made under this section stop having effect when the section ceases to apply to the operator of a service. This clarification is necessary to ensure to optimal effectiveness, efficiency, and integrity in the scheme enabling prescribed school service contracts.

Clause 69 amends S 162 to clarify that declarations made under this section stop having effect when the section ceases to apply to the operator of a service. This clarification is necessary to ensure to optimal effectiveness, efficiency, and integrity in the scheme enabling prescribed school service contracts.

Clause 70 amends schedule 2 (Reviewable decisions) and is complementary to the new provisions for prescribed school service contracts stated in clause 55. This amendment has regard to decisions made by the chief executive under the new subsection 62AC(4) with regard to a contract holder's unsatisfactory performance. This amendment enables a person affected by the decision to seek review of the decision or make appeal against the decision. The review and appeals process is provided for in chapter 10 of the Act.

Clause 71 amends the schedule 3 dictionary and provides meanings for "infringement notice" and "restricted driver authorisation".

Clause 71 also provides a definition for "driver service" which covers any arrangement on behalf of an operator that involves the supply of vehicle with a driver. The definition of "public passenger service" is amended to include a "driver service". Hence if person purports to be only providing a rental vehicle but provides or recommends or otherwise arranges a driver for the vehicle then that person will be providing a public passenger service. A similar determination would follow if a person provides a driver for a fee or other consideration together with a free vehicle.

Clause 71 also inserts a definition for "unscheduled long distance passenger service" which had previously been defined in the regulation.

Clause 71 also amends the definition for "excluded public passenger service" to clarify those services which are excluded from the scope of services defined as taxi services even though they might otherwise fall within the definition of a taxi service. For example this amendment ensures that a service which is a unscheduled long distance passenger service cannot be defined as a taxi service and hence is exempt from taxi service licence requirements.

Clause 71 also inserts a new definition for "prescribed school service contracts" to cover those service contracts which are entered into for the provision of school services for eligible school children when the service is to be provided in an area for which no s42 declaration has been made. Section 42 declarations provide that stated services in a stated area can only be provided under a service contract.

PART 6—AMENDMENT OF *TRANSPORT OPERATIONS (ROAD USE MANAGEMENT) ACT 1995*

Clause 72 states this part amends the *Transport Operations (Road Use Management) Act 1995*.

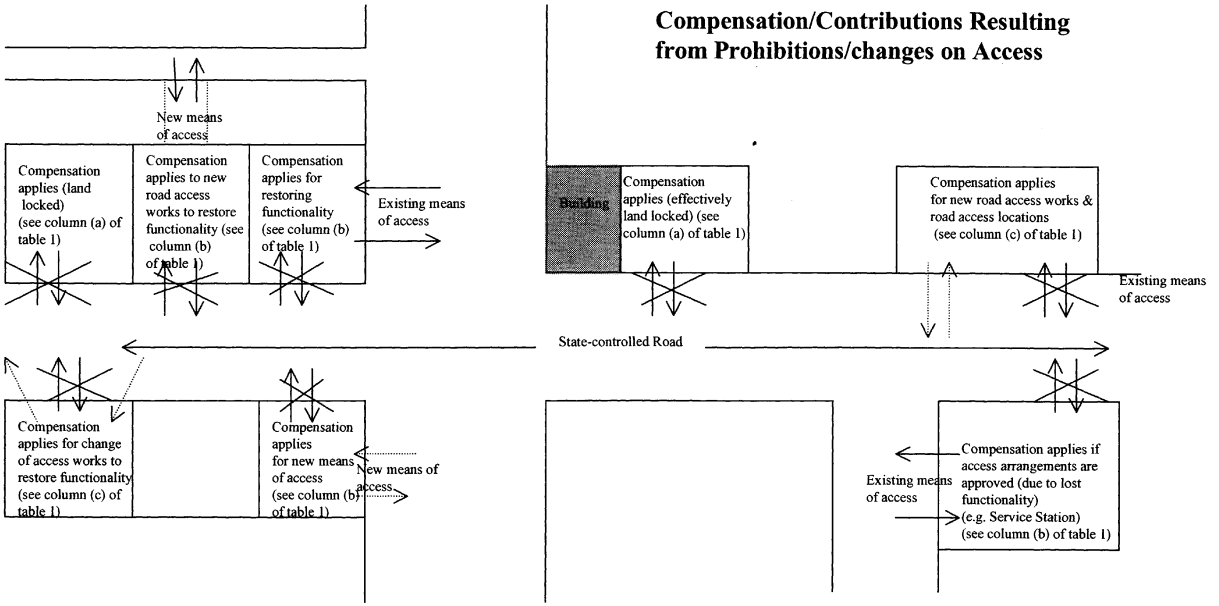
A schedule lists the amendments made.

PART 7—REPEAL OF *SEA CARRIAGE OF GOODS (STATE) ACT 1990*

Clause 73 states this Act is repealed.

Compensation/Contributions Resulting from Prohibitions/changes on Access

ATTACHMENT A



Applies to:-

•any State-controlled road

Contribution/Compensation:

- Where access not previously approved, is limited to total prohibition of access and applies as per column (a) in table 1.
- Compensation limited to diminished value of property.
- Contribution to be negotiated but maximum contribution is 100% towards restoring functionality, if economic.
- No contribution/compensation for loss of access to traffic stream.
- No contribution/compensation for changes/removal of road access works provided functionality is restored.

Negotiation for alternative access arrangements:

- Only where compensation is potentially payable.