

TRANSPORT (SOUTHBANK CORPORATION AREA LAND) BILL 1999

EXPLANATORY NOTES

GENERAL OUTLINE

OBJECTIVES OF THE LEGISLATION

The objective of this Bill is to secure certain land acquired for the South East Transit Project Busway within the South Bank area as prescribed by the *South Bank Corporation Act 1989*.

REASONS FOR THE BILL

A judgment of the Supreme Court determined that the acquisition of certain privately held land under the *Acquisition of Land Act 1967* for the South East Transit Project Busway within the South Bank area was unlawful.

This has implications for all South East Transit Project Busway land within the South Bank area.

In response the Bill seeks to retrospectively validate the instruments made under the *Acquisition of Land Act 1967* for acquiring South East Transit Project Busway corridor land within the South Bank area. Also, it addresses other land yet to be acquired within the South Bank area, to secure it from exposure to a similar adverse judgment.

ESTIMATED COSTS FOR GOVERNMENTAL IMPLEMENTATION

Implementing this Bill will not involve significant costs for government.

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 Bill infringes, in certain respects, the fundamental legislative principles contained in the *Legislative Standards Act 1992*, particularly relating to individual rights and liberties.

The Fundamental Legislative Principles

The Fundamental Legislative Principle, section 4(3)(b) of the *Legislative Standards Act 1992* provides that legislation is consistent with principles of natural justice.

The Fundamental Legislative Principle, section 4(3)(i) of the *Legislative Standards Act 1992* provides that legislation provides for the compulsory acquisition of property only with fair compensation.

The Departure

The Bill retrospectively redresses the unlawfulness of instruments made under the *Acquisition of Land Act 1967* and confirms the conversion of interests held in land acquired to a right to compensation as prescribed by the *Acquisition of Land Act 1967*.

The reason for the Departure

It is considered necessary to secure the SETP busway corridor land without delay and risk of legal challenge to ensure the integrity and viability of the State’s \$520m busway infrastructure initiative. This is a key component of the South East Queensland Integrated Regional Transport Plan which is at the forefront of proactive measures adopted by the government to deal with growth projections for South East Queensland into the new millennium.

Legal challenge has the potential to adversely affect jobs associated with the busway and hence the importance of dealing with the effects of the judgment in a comprehensive and legally watertight manner.

The Bill proposed ensures that compensation is available to the land owners affected by the acquisition process. It seeks not to acquire land but to validate the due process undertaken in the acquisition of the land in accordance with the *Acquisition of Land Act 1967*.

CONSULTATION

The following relevant organisations have been consulted:—

Department of Premier and Cabinet
Department of State Development
Department of Natural Resources
Department of Main Roads
Department of Justice and Attorney-General
Brisbane City Council

NOTES ON CLAUSES

Part 1—Preliminary

Clause 1 states that the short title of the Act is to be the *Transport (South Bank Corporation Area Land) Act 1999*.

Clause 2 states land mentioned in the schedule to the Act is taken to be excluded from the corporation area under the *South Bank Corporation Act 1989*.

This retrospectively removes the anomaly associated with the land being acquired for transport purposes when the approved development plan for the South Bank area makes no recognition of this purpose. Opportunity has been taken to include, in this respect, land which is intended to be acquired for the South East Transit Project Busway within the South Bank area. This will prevent exposure to a similar adverse judgment.

Clause 3 validates instruments made under the *Acquisition of Land Act 1967*, in particular notices of intention to resume given under section 7 of that Act in respect of land mentioned in the schedule to the Act.

Clause 4 validates instruments made under the *Acquisition of Land Act 1967* in particular proclamations made under section 9 of that Act in respect of land mentioned in the schedule to the Act.