

Transport and Other Legislation Amendment Bill 2009

Explanatory Notes

General Outline

The Bill amends the following 13 pieces of legislation:

- The *Maritime Safety Queensland Act 2002*;
- The *State Penalties Enforcement Act 1999*;
- The *State Penalties Enforcement Regulation 2000*;
- The *Transport Infrastructure Act 1994*;
- The *Transport Infrastructure (Gold Coast Waterways Management Plan) 2000*;
- The *Transport Infrastructure (Sunshine Coast Waterways) Management Plan 2000*;
- The *Transport Infrastructure (Yeppoon Waterways) Management Plan 2000*;
- The *Transport Operations (Marine Safety) Act 1994*;
- The *Transport Operations (Passenger Transport) Act 1994*;
- The *Transport Operations (Passenger Transport) Regulation 2005*;
- The *Transport Operations (Road Use Management) Act 1995*;
- The *Transport Planning and Coordination Act 1994*; and
- The *Transport Security (Counter-Terrorism) Act 2008*;

The amendment to the *Maritime Safety Queensland Act 2002* removes the redundant requirement for the general manager to prepare a strategic plan.

The *Transport Planning and Coordination Act 1994* clarifies that the Department of Transport and Main Roads' (the department's) existing jurisdiction for public passenger transport includes preventing significant adverse impacts from environmental emissions and ensures the

department's jurisdiction under the *Integrated Planning Act 1997* includes the ability to condition development applications to prevent significant adverse impacts from transport generated environmental emissions.

The *Transport Infrastructure Act 1994* (TIA) amendments:

- clarify that the department's existing jurisdiction for railways includes preventing significant adverse impacts from environmental emissions and extend the same jurisdiction to land affected by environmental emissions from Queensland's ports so that an appropriate development assessment regime may be established;
- recognise transport infrastructure as an asset that provides economic, social and environmental benefit to the State and clarify the chief executive's obligations with regard to environmental impacts resulting from the operation or use of transport infrastructure;
- relocate the authorised officer powers from the *Transport Infrastructure (Sunshine Coast Waterways) Management Plan 2000*, the *Transport Infrastructure (Gold Coast Waterways) Management Plan 2000* and the *Transport Infrastructure (Yeppoon Waterways) Management Plan 2000* to TIA;
- change references to Cairns Port Authority and Port of Brisbane Corporation to Far North Queensland Ports Corporation Limited and Port of Brisbane Corporation Limited respectively; and
- clarify that the powers of a port authority are subject to the *Transport Operations (Marine Safety) Act 1994*.

The amendments to the *Transport Operations (Marine Safety) Act 1994* create a head of power to enable the general manager of Maritime Safety Queensland to direct the master of a ship to navigate or otherwise operate the ship in a specified way and create a consequential head of power to direct a person in charge of a place to allow a ship to be berthed at the place, to allow access through the place to the ship or such other things as are necessary to deal with the exceptional circumstances.

The *Transport Operations (Passenger Transport) Act 1994* amendments will:

- reclassify all category A driver disqualifying offences as category B if the person convicted of the offence was a child (that is under 17 years old) at the time of the offence;

- provide for a regulation to allow the chief executive to suspend or cancel a taxi service licence for non-payment of the taxi industry security levy; and
- provide consistency for the amenity and reverse amenity amendments.

The *Transport Operations (Road Use Management) Act 1995* (TORUM Act) will be amended to allow for a trial of enforcement of high occupancy vehicle (HOV) lanes (bus lanes and transit lanes) by transport inspectors. If the trial is successful, the additional powers given to transport inspectors to enforce HOV lanes will be continued. The amendments give transport inspectors powers to stop private vehicles and require a driver licence from drivers who are unlawfully using HOV lanes. Transport inspectors are appointed by the chief executive as authorised officers under section 20 of the TORUM Act. Transport inspectors already have powers under the TORUM Act to stop heavy vehicles, to require the driver of a heavy vehicle to produce their driver licence and to require name and address information from drivers of vehicles suspected of committing transport offences.

The amendment to the *Transport Security (Counter-Terrorism) Act 2008* inserts a definition of “law enforcement agency” in the Dictionary for that Act.

Amendments to the *State Penalties Enforcement Act 1999* and the *State Penalties Enforcement Regulation 2000* were required by the Office of the Queensland Parliamentary Counsel to ensure cross references between legislation are accurate, and to provide clarity about the regulation-making power of the Governor in Council.

Short Title

The short title of the Bill is the Transport and Other Legislation Amendment Bill 2009.

Policy Objectives of the Legislation

The amendments to the *Maritime Safety Queensland Act 2002* were made following a recommendation of the Service Delivery and Performance Commission (SDPC), which related to strategic planning provisions in transport legislation. When responding to the SDPC’s recommendation, the department identified there was no need to carry a requirement to prepare a strategic plan in the *Maritime Safety Queensland Act 2002*.

Amenity and Reverse Amenity amendments

The proposed amendments stem from a review of the department's jurisdiction for ensuring environmental emissions generated from transport infrastructure do not result in adverse impacts on the operational integrity of Queensland's transport system or the health and well being of the Queensland community.

The amendments to the *Transport Planning and Coordination Act 1994* clarify the department's jurisdiction to regulate development surrounding public passenger transport for the purpose of ensuring:

- the development does not have a significant adverse impact on existing and future public passenger transport; and
- the amenity of the development is protected from environmental emissions generated by existing and future public passenger transport.

The amendments to the *Transport Infrastructure Act 1994*:

- clarify that the department's jurisdiction to protect the safety and operational integrity of railways and future railways includes preventing significant adverse impacts from environmental emissions and extends this jurisdiction to ensure the department can protect community health and well being.
- extend the department's jurisdiction to provide protection to Queensland ports and those communities affected by environmental emissions from Queensland ports;
- provide that the management response to transport generated noise emissions must balance the need to provide an efficient network of transport infrastructure with the need to reduce any adverse environmental impacts resulting from its operation. This amendment is consequential to the decision to not include beneficial asset provisions in the Environmental Protection (Noise) Policy 2008. The repealed Environmental Protection (Noise) Policy 1998 included such provisions; and
- qualify the chief executive's obligations to ensure the management of environmental emissions from transport infrastructure is consistent with the government's requirement for value for money for resources applied to the construction, maintenance and operation of transport infrastructure.

The amendments to the *Transport Operations (Passenger Transport) Act 1994* were made to ensure consistency with the amendments to the *Transport Infrastructure Act 1994* and to clarify the chief executive's obligations regarding the construction, maintenance and operation of transport infrastructure.

Waterways management plans authorised officer appointment and powers

The relocation of the authorised officer appointment provisions and powers currently contained in the *Transport Infrastructure (Gold Coast Waterways) Management Plan 2000*, the *Transport Infrastructure (Sunshine Coast Waterways) Management Plan 2000* and the *Transport Infrastructure (Yeppoon Waterways) Management Plan 2000* to the *Transport Infrastructure Act 1994* meet contemporary drafting practices.

For consistency with other transport legislation, police officers and inspectors appointed under the *Fisheries Act 1994* will also be recognised as authorised officers for the purposes of the waterways management plans.

The amendments to the *Transport Operations (Marine Safety) Act 1994* provide for two related powers for the general manager of Maritime Safety Queensland to direct the master of a ship to navigate or otherwise operate the ship in a specified way, and to direct a person in charge of a place to allow a ship to be berthed at the place, to allow access through the place to and from the ship. These two powers will enable Maritime Safety Queensland to manage the operation of ships in pilotage areas in exceptional circumstances when the public interest requires it. The *Transport Infrastructure Act 1994* will also be amended to clarify that the powers of a port authority are subject to the *Transport Operations (Marine Safety) Act 1994*. This supports the amendments for the general manager's powers of direction.

The amendments to the *Transport Operations (Passenger Transport) Act 1994* reclassify all category A driver disqualifying offences as category B if the person convicted of the offence was a child (that is under 17 years old) at the time of the offence, to provide a limited natural justice process to allow people convicted of such offences to have their individual circumstances reviewed. This review is to determine whether they are suitable to drive public transport vehicles (such as a taxi).

The amendment to provide for a regulation that allows the chief executive to suspend or cancel a taxi service licence for non-payment of the taxi industry security levy ensures all taxi licence owners contribute equally to the costs of the night-time taxi rank security measures.

Enforcement of high occupancy vehicle lanes

HOV lanes (such as bus lanes and transit lanes) are designed to ease traffic congestion by encouraging more efficient use of road space. HOV lanes have the potential to move more people with fewer vehicles and encourage modal shift from single occupant vehicles to high occupancy vehicles. The unlawful use of HOV lanes detracts from these objectives. The Bill gives additional powers to transport inspectors to enforce HOV lane restrictions for a trial period. If the trial is successful, the additional powers for transport inspectors will be continued.

The amendment to the *Transport Security (Counter-Terrorism) Act 2008* inserts a definition of “law enforcement agency” in the Dictionary for that Act. This serves to clarify that the term includes agencies of any Australian jurisdiction established for a law enforcement or counter-terrorism purpose and is not limited to Queensland agencies. The purpose of this clarification is to ensure the chief executive’s capacity to source the relevant information necessary to make a declaration of a Security-Identified Surface Transport Operation under the *Transport Security (Counter-Terrorism) Act 2008* will not be limited.

Reasons for the Bill

Port authorities

Amendments to references to individual port authorities in the *Transport Infrastructure Act 1994* are required as a result of name changes, including incorporation under the *Corporations Act 2001*.

Maritime legislation

The amendments to the *Transport Operations (Marine Safety) Act 1994* (TOMSA) originated from the difficulties experienced by the State in dealing with the cruise ship *Pacific Dawn* when it entered Queensland waters earlier this year.

The ship entered Queensland waters on Saturday 30 May 2009 carrying passengers and crew who were affected by the influenza virus H1N1, colloquially known as ‘swine flu’.

While the Chief Health Officer has extensive powers under the *Quarantine Act 1908* (Cth) in relation to putting a ship in quarantine, and in relation to the persons affected by the disease, such powers do not extend to directing the master about the operation or navigation of a ship.

Furthermore, unless there is a threat to safety, TOMSA does not contain a power to direct the master of a ship to operate or navigate a ship in a specified way, other than the possibility of a request by the Minister through the chief executive to a harbour master under TOMSA.

This amendment will therefore enable the general manager of Maritime Safety Queensland to direct the master of a ship to navigate or otherwise operate the ship in a specified way and direct a person in charge of a place to allow a ship to be berthed at the place, to allow access through the place to the ship or such other things as are necessary to deal with the exceptional circumstances.

Passenger transport legislation

The amendments to the *Transport Operations (Passenger Transport) Act 1994* are required to provide a limited natural justice process to allow persons who have been convicted of category A offences committed when they were a child (that is under 17 years old) to have their individual circumstances reviewed to determine whether they are suitable to drive public transport vehicles and for a more efficient and effective process for the chief executive to collect the taxi security industry levy from non-paying taxi service licence holders.

Amenity and Reverse Amenity

The Queensland government has adopted growth management strategies focussed on achieving a land use pattern where housing, jobs, key services and recreational destinations are located in areas highly accessible by public passenger transport. While this land use pattern will support more efficient use of land and natural resources, it is important to recognise it also has the potential to have adverse impacts on both the community living and working in locations adjacent to public passenger transport, and the operational integrity of the public passenger transport system.

Additionally, Queensland's sustained population growth has resulted in increased urban encroachment on other types of transport infrastructure (for example, ports, airports and freight rail infrastructure). Locating development on land adjacent to this infrastructure without the appropriate mitigation of environment emissions can also have an adverse impact on community health and wellbeing and the operational integrity of the transport system.

The amendments will ensure the co-location of operational transport infrastructure and urban development occurs in a way that seeks to minimise adverse impacts on community health and wellbeing.

The amendments to the *Transport Planning and Coordination Act 1994*, *Transport Infrastructure Act 1994* and *Transport Operations (Passenger Transport) Act 1994* were necessary as a result of the:

- remake of the *Environmental Protection Regulation 1998* and Environmental Protection Policies for Air, Noise and Water;
- Planning and Environment Court decision *Benchmark Pty Ltd v Cairns City Council* (2007) which raised uncertainty about whether the department's existing jurisdiction for protecting transport infrastructure included protecting transport infrastructure from any adverse impacts that may result from locating development on land that is affected by environmental emissions from transport infrastructure;
- increasing threats to the safety and operational integrity of the transport system due to urban encroachment on transport infrastructure (rail, road, busways and ports); and
- lack of any protection for ports infrastructure.

Amendments to the *Transport Planning and Coordination Act 1994* and *Transport Infrastructure Act 1994* are necessary to ensure the department's jurisdiction under the *Integrated Planning Act 1997* includes the ability to place conditions on development applications to prevent significant adverse impacts from transport generated environmental emissions. Amendments to the *Transport Operations (Passenger Transport) Act 1994* are necessary to ensure consistency across transport acts.

Operating transport infrastructure releases environmental emissions including noise, air particles, fumes and light. These emissions can have adverse impacts on the community, especially where transport infrastructure and emission sensitive land uses are co-located. Co-location of transport and emission sensitive land uses can also have significant adverse effects on the operational integrity of the transport network. For example, significant levels of public complaint about environmental emissions can result in more stringent operating conditions or injunctions being placed on transport infrastructure.

Waterways management Authorised officers powers

The relocation of the authorised officers' appointment provisions and powers currently contained in the *Transport Infrastructure (Sunshine Coast Waterways) Management Plan 2000*, the *Transport Infrastructure (Gold Coast Waterways) Management Plan 2000* and the *Transport Infrastructure (Yeppoon Waterways) Management Plan 2000* to the *Transport Infrastructure Act 1994* will comply with contemporary drafting standards.

Providing that police officers and inspectors appointed under the *Fisheries Act 1994* will also be recognised as authorised officers for the purposes of the waterways management plans provides consistency with other transport legislation.

Enforcement of high occupancy vehicle lanes

The Bill provides additional powers to transport inspectors to enforce HOV lane restrictions for a trial period.

Administrative Costs

The administrative costs associated with the introduction of these amendments will be absorbed within existing budget allocations

Achieving the Objectives

Maritime legislation

The Bill will enable Maritime Safety Queensland to manage the safe operation of ships in pilotage areas. Generally speaking the penalty for an offence of not complying with a direction is in the vicinity of several hundred penalty units. The penalties for contravention of all of the following directions are 200 units:

- direction to master about operation of ship in relation a marine incident area;
- direction to master about operations of ship in relation to pilotage area;
- direction to person in charge of a place;
- direction to person carrying out obstruction; and
- direction to person to put out certain lights.

However, contravention of the general safety obligation under sections 40, 41, 43 and 44 results in a maximum fine of 500 penalty units or imprisonment for one year.

In certain aggravated circumstances, a higher penalty is appropriate, consisting of a fine of up to 500 penalty units or even a term of imprisonment. For example, under section 172 of the *Transport Operations (Marine Safety) Act 1994* the maximum penalty for contravening a direction from a shipping inspector is 500 penalty units or 1 year's imprisonment, however under subsection (5) if the contravention causes death or grievous bodily harm then it is raised to 5000 penalty units or imprisonment for two years. This amendment will only apply in exceptional circumstances and when the public interest requires it. In such circumstances, a higher penalty is appropriate because contravention of the direction will be against the public interest in a situation where compliance with the direction would be extremely important. Therefore 500 penalty units or imprisonment for one year is considered an appropriate penalty.

Passenger transport legislation

The Bill will reclassify all category A driver disqualifying offences as category B if the person convicted of the offence was a child (that is under 17 years old) at the time of the offence. It will provide a limited natural justice process to allow people convicted of such offences to have their individual circumstances reviewed to determine whether they are suitable to drive public transport vehicles.

The Bill will also allow the department to suspend or cancel the taxi service licence for non-payment of the taxi industry security levy. This new provision will provide the chief executive with an efficient mechanism to ensure the collection of all levies from taxi licence holders.

Amenity and Reverse Amenity

The proposed amendments to the *Transport Infrastructure Act 1994* and the *Transport Planning and Coordination Act 1994* will enable the department to ensure the co-location of operational transport infrastructure and urban development occurs in a way that seeks to minimise adverse impacts on community health and wellbeing.

Waterways management Authorised officers powers

The relocation of the authorised officers' appointment provisions and powers currently contained in the *Transport Infrastructure (Sunshine Coast Waterways) Management Plan 2000*, the *Transport Infrastructure (Gold*

Coast Waterways) Management Plan 2000 and the Transport Infrastructure (Yeppoon Waterways) Management Plan 2000 to the Transport Infrastructure Act 1994 will comply with contemporary drafting standards.

Enforcement of high occupancy vehicle lanes

The Queensland Road Rules (QRR) make it an offence under section 154 to drive a vehicle other than a bus, taxi or bicycle in a bus lane and under section 156 it is an offence to drive in a transit lane without the specified minimum number of persons in the vehicle unless the vehicle is a bicycle, bus, taxi or motorcycle. The Bill amends the TORUM Act to allow transport inspectors to stop private vehicles between 6am and 7pm on business days if the inspector reasonably believes a person is committing or has just committed an offence against section 154(1) or 156(1) of the QRR. The Bill also gives transport inspectors the power to require a person whose vehicle has been stopped to produce their driver licence.

In line with section 58 of the *Police Powers and Responsibilities Act 2000* (PPRA), a person who holds an open driver licence, but is not carrying it, may produce the licence within two business days to an office of the Department of Transport and Main Roads (DTMR) nominated by the transport inspector, usually a DTMR Customer Service Centre. The PPRA provision allows 48 hours to produce a licence at a police station, but as offices of DTMR are not open on weekends and public holidays, two business days is considered appropriate.

The Bill gives transport inspectors these powers for a trial period until 31 March 2011. If the trial is successful, the additional powers for transport inspectors will be continued.

Transport inspectors already have powers to stop heavy vehicles, to require drivers of heavy vehicles to produce their driver licence and to require name and address information from drivers of vehicles suspected of committing transport offences. The details from a person's driver licence or the name and address information the person provides will be used to issue the driver with a penalty infringement notice.

Fundamental Legislative Principles

Amenity and Reverse Amenity

The amendment of the *Transport Infrastructure Act 1994* proposed by clause 8(2) may raise the fundamental legislative principle (FLP) that

legislation does not adversely affect rights and liberties, or impose obligations, retrospectively. The Bill addresses this issue by providing a transitional period of six months, from the date of the assent of the Bill, during which the requirements of new subsection 258(2)(b) do not apply. A six month period is considered to be ample time for individuals and developers to comply with the requirement to mitigate environmental emissions from a railway. This is because:

- conditioning a development approval to mitigate environmental emissions from a railway is not a new requirement for the development industry. Additionally, in many local government areas within Queensland, developers are already required to mitigate environmental emissions in order to gain development approval. For example, the Brisbane City Plan 2000 provides that developers must comply with the Noise Impact Planning Scheme Policy.
- compliance with conditions about mitigation of environmental emissions typically requires developers to use particular building and landscaping treatments as a means of mitigating emissions. These measures include, but are not limited to, double-glazed windows, insulation and vegetation buffers. These materials are readily available and used extensively within the building and construction industry.
- six months is considered to be standard time frame for comparable building requirements (for example, the requirements imposed by the Sustainable Buildings Development Code).

It is important to note that the amendment proposed to section 258(2)(a) of the *Transport Infrastructure Act 1994* does not create a new head of power. The explanatory notes for the Transport and Other Legislation Amendment Bill (No. 2) 2004 clearly intend for the Department of Transport and Main Roads to be able to require that development mitigate impacts on developments from environmental emissions from railways where the emissions will likely impact the safety and operational integrity of the railway.

The amendment of the *Transport Infrastructure Act 1994* proposed by clause 11 may raise the fundamental legislative principle that legislation does not adversely affect rights and liberties, or impose obligations, retrospectively. The Bill addresses this issue by providing a transitional period of six months, from the assent of the Bill, during which individuals and developers are not required to comply with new section 287A. This is

considered to be ample time for industry to conform to the new requirements of section 287A. This is because:

- the department already has the jurisdiction to impose conditions on developers requiring mitigation of environmental emissions from rail, busway, light rail and airport infrastructure.
- many port authority land use plans already require the mitigation of environmental emissions in order to gain development approval. For example, the Port of Brisbane Development Code 2007 requires developers to ensure that site layouts locate sources of environmental emissions away from sensitive environments and include use of landscaping aids to reduce noise emissions, assist in dust filtration and provide screening from light.
- compliance with conditions about mitigation of environmental emissions typically requires developers to use particular building and landscaping treatments as a means of mitigating emissions. These measures include, but are not limited to, double-glazed windows, insulation and vegetation buffers. These materials are readily available and used extensively within the building and construction industry.
- six months is considered to be standard time frame for comparable building requirements (for example, the requirements imposed by the Sustainable Buildings Development Code).

Additionally, it is important to note that before the department is able to commence the assessment or conditioning of development applications based on the head of power established by new section 287A, a development assessment regime under the *Integrated Planning Regulation 1998* or another mechanism is required. The Department of Transport and Main Roads will work in collaboration with the Department of Infrastructure and Planning to establish the development assessment regime.

Relocating authorised officers powers to Transport Infrastructure Act

Although some of the authorised officers powers in the Bill potentially infringe FLPs, the need to ensure the waterways are managed efficiently, effectively and ensure the safety of all persons using the waterways, override any potential impact on individual rights. Sufficient safeguards, as explained further below, have been placed in the legislation for the protection of the rights of individuals.

The purpose of the waterways management plans is to manage the efficiency, effectiveness and safety of certain waterways. These waterways are not within the power of Queensland's maritime safety or maritime pollution legislation.

The authorised officers powers for the enforcement of the *Transport Infrastructure (Gold Coast Waterways) Management Plan 2000*; *Transport Infrastructure Sunshine Coast Waterways) Management Plan 2000* and the *Transport (Yeppoon Waterways) Management Plans 2000* are currently located within each of the waterways plans. The Bill will relocate these powers to the *Transport Infrastructure Act 1994* to comply with contemporary drafting standards and acknowledge that these powers are more properly located in primary legislation.

In relocating the authorised officers' powers to the *Transport Infrastructure Act 1994* although the powers have been drafted to ensure consistency with other authorised powers located within the *Transport Infrastructure Act 1994*, the extent and intent of the powers remain the same.

Entry of Places by authorised officers

New section 475I allows an authorised officer to enter a place only if its occupier consents to the entry or the entry is authorised by a warrant. However section 475I provides that for the purpose of asking the occupier of a place for consent, the authorised officer may without consent or a warrant-

- enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- enter part of the place the authorised officer reasonably considers members of the public ordinarily are allowed to enter

New section 475J provides the procedure an authorised officer must follow to obtain consent from an occupier. In particular, before asking for consent the authorised person must tell the occupier the purpose of the entry and that the occupier is not required to consent. Section 475J provides that in a proceeding, the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

The definition of 'place' is broad. The definition, in addition to a watercraft, does include land, buildings and other structures. As discussed above, Section 475I (Power to enter places) only enables an authorised officer to enter a 'place' with the occupiers consent or with a warrant. An example of when an authorised officer would need to visit a place other

than a watercraft (that is, a structure above the high water mark) would be to give the owner notice of the removal of a watercraft (pursuant to section 475P).

Removal of watercraft by authorised officers

The powers of an authorised officer that does not require the consent of the owner are limited to the removal of “watercraft” below the high water mark in certain circumstances and do not rely on the broad definition of ‘place’.

New Section 475Q (Removing illegally anchored or moored watercraft) provides that an authorised officer who reasonably believes that a watercraft is anchored or moored in contravention of a waterways plan may give the owner or occupier 14 days notice of intention to remove. Pursuant to section 475Q (Removing illegally anchored or moored watercraft) provides that if after 14 days the watercraft is still in contravention of a waterways plan and the authorised person cannot immediately find the watercraft’s owner or operator or reasonably believes that the watercraft’s owner or operator is not willing or able to move the watercraft, then the authorised person may take steps to have the watercraft removed to a place not in contravention of a waterways plan.

These powers only apply to anchored or moored watercraft in contravention of a waterways management plan. For example, if a watercraft has been left abandoned the authorised officers, after appropriate notice, may remove the craft.

However pursuant to section 475R (Removal of hazardous watercraft), if a watercraft is anchored or moored in contravention of a waterways plan and is a hazard to water traffic the authorised officer may take necessary and reasonable steps to have the watercraft removed to a place not in contravention of a waterways plan. The example provided in the section 475R “A watercraft is a hazard to water traffic if it is on or beside the course of a power boat race conducted under a consent under the *Transport Operations (Marine Safety) Act 1994 section 217(2)*”.

Appropriateness of penalties for offence

The penalties imposed are considered to be appropriate to the offence.

In relocating the authorised officers powers there are no new penalties for an authorised officer, who has stopped being an authorised officer, however the penalty for failing to return the identity card has been increased from 20 penalty units to 40 penalty units. Originally the authorised officer had 7 days to return the identity card but this has been extended to 21 days (new

section 475G). This is consistent with other authorised officer powers with TIA.

Section 475X (Direction to stop contravening plan) provides a 40 penalty unit offence for failing to comply with a direction to stop contravening a waterway management plan. This penalty is considered appropriate as a failure to follow a direction by an authorised officer can be a safety related issue. A boat that is moored or anchored in contravention of a plan could be placing at risk other waterways users.

The offences within the waterways management authorised officer powers have significantly lower penalties compared to other offences such as rail safety that are significantly higher. The difference in the penalty units reflects the different safety consequences for the breach of the offence.

Maritime legislation

The proposed amendments may breach fundamental legislative principles regarding the rights and liberties of individuals, in particular whether the new powers are sufficiently defined, subject to appropriate review, and are consistent with the principles of natural justice, and the penalties are appropriate for the offences.

Power sufficiently defined

It is suggested that the powers are sufficiently defined, in that they are bound by the concepts of exceptional circumstances and public interest, and are practically confined to the masters of ships and persons in charge of a place adjacent to a pilotage area that are subject to those exceptional circumstances and only when the public interest is enlivened. Two examples of possible scenarios are given for clarification and to aid with interpretation of the scope of the power conferred, particularly under review.

Power subject to appropriate review

The proposed powers in the *Transport Operations (Marine Safety) Act 1994* should be made subject to the administrative review provisions contained in part 16 of the Act.

Natural justice

Natural justice principles will be observed given that the proposed powers will be exercised subject to the provisions of part 16 of the *Transport Operations (Marine Safety) Act 1994*. Part 16 contains the provisions for review and appeal that incorporate natural justice principles.

Compensation

An equivalent power in section 89 (Direction to a person in charge of a place) of the *Transport Operations (Marine Safety) Act 1994* does not contain any requirements for compensation and the perceived risk of the powers being exercised is extremely low. It is not considered necessary to provide compensation from damages arising from an exercise of the power.

The use of these new powers is highly unlikely, as the threshold of exceptional circumstance and public interest will rarely be met. Furthermore, most ships affected will be covered by Protection and Indemnity clubs. These clubs are mutual associations formed by shipowners to provide protection against financial loss by one owner by the combined contributions of other owners in the association. The clubs cover third party liabilities and expenses arising for owning ships or operating ships as principals. The State will be liable for the consequences of any exercise of the power that is beyond the scope of the section.

Appropriateness of penalties for offences

Generally speaking the penalty for an offence of not complying with a direction under the *Transport Operations (Marine Safety) Act 1994* is in the vicinity of several hundred penalty units. The penalties for contravention of all the following directions are 200 penalty units:

- Direction to master about operation of a ship in relation to a marine incident area,
- Direction to master about operations of ship in relation to a pilotage area,
- Direction to person in charge of a place,
- Direction to person carrying out obstruction,
- Direction to person to put out certain lights.

However, contravention of the general safety obligation under sections 40, 41, 43 and 44 has a maximum penalty of 500 penalty units or imprisonment for one year.

In certain aggravated circumstances, a higher penalty is appropriate, consisting of a fine of up to 500 penalty units or even a term of imprisonment. For example, under section 172 of the Act, the maximum penalty for contravening a direction from a shipping inspector is 500 penalty units or one year's imprisonment, however under subsection (5), if

the contravention causes death or grievous bodily harm, the penalty increases to 5000 penalty units or imprisonment for two years.

This amendment will only apply in exceptional circumstances, and when the public interest requires it. In such circumstances, a higher penalty is appropriate because contravention of the direction will be against the public interest in a situation where compliance with the direction will be extremely important. 500 penalty units or imprisonment for one year is considered appropriate in this situation.

Enforcement of high occupancy vehicle lanes

Fundamental legislative principles require that legislation must have sufficient regard to the institution of Parliament. Section 4(4)(c) of the *Legislative Standards Act 1992* provides that whether a Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill authorises the amendment of an Act only by another Act.

Proposed section 170A(1) of the TORUM Act provides that the amendments allowing transport inspectors to enforce HOV lanes will expire on 31 March 2011. Proposed section 170A(2) allows a regulation to be made extending the expiry date for the powers until 31 March 2012.

Proposed section 170A(2) could be considered a breach of the fundamental legislative principle that the Bill has sufficient regard to the institution of Parliament, as it allows the expiry date for powers of transport inspectors to enforce HOV lanes to be extended by subordinate legislation.

The trial of enforcement of HOV lane restrictions by transport inspectors is to occur in 2010. If the trial is successful, the TORUM Act would need to be amended to remove section 170A and sufficient time needs to be allowed for an amending Bill to do this. A regulation made under section 170A(2) simply facilitates the additional time needed to bring a Bill back to Parliament and would only be made if the powers are to be continued. Given that the extension from expiry is contemplated by the Act and is strictly limited to a day no later than 31 March 2012, it is considered that the amendments have sufficient regard to the institution of Parliament.

If the trial is unsuccessful, the expiry provision would apply and no further action would be needed.

Consultation

Consultation has been undertaken with the Department of the Premier and Cabinet, Queensland Treasury, the Department of Infrastructure and

Planning, the Department of Employment, Economic Development and Innovation, the Department of Justice and the Attorney-General, the Department of Environment and Resource Management including the Office of Climate Change and the Queensland Police Service.

Notes on Clauses

Part 1 Preliminary

Short Title

Clause 1 sets out the short title of the Act as the *Transport and Other Legislation Amendment Act 2009*.

Commencement

Clause 2 provides that part 7 commences on 1 January 2010. The remainder of the Bill commences on assent in accordance with section 15A of the *Acts Interpretation Act 1954*.

Part 2 Amendment of Maritime Safety Queensland Act 2002

Clause 3 provides that part 2 amends the *Maritime Safety Queensland Act 2002*.

Clause 4 amends section 11 (Functions and powers of general manager) by omitting section 11(2)(c). This removes the need for the general manager to prepare a strategic plan. This change has been made in response to the recommendations of the Service Delivery and Performance Commission (SDPC). In 2008, the SDPC undertook a review of planning requirements in transport legislation and it was deemed unnecessary for Maritime Safety

Queensland to prepare a strategic plan in addition to the strategic plan prepared by the department.

Part 3 Amendment of Transport Infrastructure Act 1994

Clause 5 provides that part 3 and the schedule amend the *Transport Infrastructure Act 1994*.

Clause 6 amends section 2 (Objectives of this Act) by inserting ‘network; and’ into section 2(2)(i)(vii).

Clause 7 replaces section 9 (Obligations about government supported transport infrastructure) with a new section 9 (Obligations about government supported transport infrastructure) and section 9A (Beneficial assets). New section 9 clarifies the chief executive’s obligations with regard to the construction, maintenance and operation of government supported infrastructure.

New section 9(a) describes the policy objective which must be achieved in constructing, maintaining and operating all government supported transport infrastructure for which the chief executive is responsible and is carried out in a way that:

- (i) takes into account best practice and national benchmarks;
- (ii) promotes the safe transport of persons and goods;
- (iii) reduces environmental impact; and
- (iv) encourages efficient and competitive behaviour in the construction and maintenance of transport infrastructure.

New section 9(a) provides that the policy objective must be achieved within the overarching objective of the Chapter, that is, to ensure value for money for resources applied to the construction, maintenance and operation of transport infrastructure.

New subsections 9(a)(ii) and 9(a)(iv) replicate existing sections 9(b)(ii) and 9(b)(iii).

New subsection 9(a)(i) replaces existing subsection 9(b)(i). The purpose of this amendment is to enable practices, management strategies and

benchmarks developed in Queensland and Australia to be recognised as best practice approaches for addressing issues relating to the construction, maintenance and operation of transport infrastructure.

New subsection 9(a)(iii) inserts a new requirement for the chief executive to ensure that construction, maintenance and operation of transport infrastructure is carried out in a way that reduces adverse environmental impact. This provision reflects the chief executive's existing general environmental duty under the *Environmental Protection Act 1994*.

New sections 9(b) and 9(c) replicate existing sections 9(a) and 9(c) respectively.

New section 9A recognises transport infrastructure as an asset that provides economic, social and environment benefit to the State (i.e. 'a beneficial asset') and clarify the chief executive's obligations with regard to environmental impacts resulting from the operation or use of a beneficial asset.

Section 9A(1) establishes that although the operation or use of transport infrastructure may have adverse environmental impacts (for example, the emission of light from a busway or railway station), the operation and use of the transport infrastructure is necessary for the community's environmental, social and economic well being. The intent of this provision is to provide for the continued operation and use of transport infrastructure despite the adverse environmental impacts that may result.

Section 9A(2) provides that any measures undertaken to reduce significant adverse environmental impacts must meet the overarching requirement of Chapter 3, that is, to ensure value for money for resources applied to the construction, maintenance and operation of transport infrastructure. Section 9A(2) states the government's intention to ensure that any significant adverse environmental impacts resulting from the operation or use of transport infrastructure are progressively reduced.

The intent of section 9(A) is not new government policy. The policy position has been transferred from the *Environmental Protection (Noise) Policy 1998* (superseded) to the *Transport Infrastructure Act 1994* in recognition of the fact that transport agencies are best placed to ensure that environmental impacts resulting from the operation or use of transport infrastructure are addressed within the value for money requirement.

Clause 8 amends the heading for section 258 (Impact of particular development on railways) and omits sections 258(2) and 258(3) and

replaces them with new sections 258(2) and 258(3). Section 258 establishes the department's jurisdiction for preventing adverse impacts on railways.

The existing section 258(2) provides that the purpose of the section is ensuring the safety and operational integrity of railways and future railways. New subsection 258(2)(a) reflects existing section 258(2). New section 258(2)(a) provides that the department can require development to mitigate impacts on the development resulting from environmental emissions from a railway, where the emissions would result in an adverse impact on the safety and operational integrity of a railway (for example, community complaint resulting in an injunction limiting operation of a railway).

New section 258(2)(b) expands the purpose of section 258 to recognise that environmental emissions generated from a railway can have an adverse impact on the health and wellbeing of the community, if measures are not undertaken to mitigate such impacts. Section 258(2)(b) establishes that where a development is proposed in an area that is (or will be) affected by environmental emissions from a railway or future railway, the chief executive is responsible for ensuring that a developer has considered the impacts on future occupiers or users of the development resulting from transport generated environmental emissions and has included measures to mitigate such impacts where required. New section 258(2)(b) establishes that the Department of Transport and Main Roads can protect community health and amenity by ensuring development addresses adverse impacts on development from environmental emissions generated by railways and future railways in the circumstance where there may not be a specific threat to the safety and operational integrity of a railway or future railway.

The purpose of the above amendments to section 258(2) is to clarify that the chief executive's responsibilities, when land in the vicinity of a railway or future railway is proposed to be developed, include:

- (i) ensuring the safety and operational integrity of railways and future railways is maintained; and
- (ii) ensuring development addresses adverse impacts on the development from environmental emissions generated by railways and future railways.

New section 258(3) enables the chief executive to make an assessment about the extent to which a development application satisfies the purposes of section 258 when acting as an assessment manager or referral agency

under the *Integrated Planning Act 1997*. This means that when acting as an assessment manager or referral agency under the *Integrated Planning Act 1997* the chief executive may place a condition on a development application requiring the developer to mitigate any adverse impacts on the safety and operational integrity of a railway or future railway, or the health and wellbeing of the development's occupiers or users resulting from locating the development on land adjacent to, or on land affected by environmental emissions from a railway or future railway.

New section 258(3):

- (i) does not alter the chief executive's existing power to place conditions on a development application regarding development impacts which threaten the safety and operational integrity of a railway or future railway; and
- (ii) enables the chief executive to impose conditions which are intended to ensure adverse impacts from transport generated environmental emissions (such as noise, dust, odour and light) are mitigated to safe standards by, for example, requiring buffering, landscaping, fencing, site or structural redesign or use of particular construction materials.

It is intended that the power of the chief executive under section 258 is limited to the specific thresholds for determining what development the chief executive can assess and condition as set out in the *Integrated Planning Regulation 1998*. It is intended for conditions placed on development applications by the chief executive under this section to comply with provisions regarding conditions under the *Integrated Planning Act 1997* (Division 6). The *Integrated Planning Act 1997* (Chapter 4) provides rights of appeal for conditions applied to development under the Act.

Clause 9 amends section 275 (Functions of port authorities). Section 275(1)(f) omits the references to the Cairns Port Authority and Port of Brisbane Corporation and inserts references to the Far North Queensland Ports Corporation Limited and the Port of Brisbane Corporation Limited respectively. These changes are a result of the *Government Owned Corporations Amendment Regulation (No. 1) 2008* amending the name of the Cairns Port Authority to Cairns Port and its subsequent incorporations under the *Corporations Act 2001* as Cairns Ports Limited. The *Transport and Other Legislation Amendment Regulation (No. 1) 2009* transferred the management of additional eight ports to Cairns Ports Limited. In line with the port authority's expanded area of operations Cairns Ports Limited

amended its name under the *Corporations Act 2001* to Far North Queensland Ports Corporations Limited.

The Port of Brisbane Corporation has been incorporated under the *Corporations Act 2001* as Port of Brisbane Corporation Limited.

Clause 10 amends section 277 (Powers of port authorities subject to Marine Safety Act) to clarify that powers of port authorities are subject to directions by the general manager, under part 14A of the *Transport Operations (Marine Safety) Act 1994*.

Clause 11 inserts new sections 287A (Impact of particular development and port operations) and 287B (Guidelines for s 287A).

Section 287A establishes a new responsibility for the chief executive regarding the development of land in the vicinity of a port. Specifically, section 287A requires the chief executive to ensure that the safety and operational integrity of a port is maintained and that development addresses adverse impacts on the development from environmental emissions generated from a port. It is intended for this provision to enable the chief executive to protect both strategic port land and land identified in a port authority's land use plan as future strategic port land.

New subsection 287A(3) enables the chief executive to make an assessment about the extent to which a development application satisfies the above mentioned purposes when acting as an assessment manager or referral agency under the *Integrated Planning Act 1997*. This provides that the chief executive may, when acting as an assessment manager or referral agency under the *Integrated Planning Act 1997*, place a condition on a development application requiring the developer to mitigate any adverse impacts on the safety and operational integrity of a port, or the health and wellbeing of the development's occupiers or users resulting from locating the development on land adjacent to, or on land affected by environmental emissions from, a port.

For example, conditions may be imposed to ensure:

- works adjacent to a port do not impact on the structural integrity of port land or infrastructure (including transport infrastructure);
- safe access to a port;
- a proposed development does not significantly increase the number of vehicles using key access routes to a port;

- a proposed development does not prevent the future expansion of port infrastructure or port operations;
- a proposed development mitigates the safety risks posed to the development's occupiers or users resulting from an event of an accident or incident at the port (for example, an explosion, chemical spill or leak) by, for example, requiring buffering, landscaping, fencing, site or structural redesign or use of particular construction materials;
- adverse impacts from transport generated environmental emissions (such as noise, dust, odour and light) are mitigated to safe standards by, for example, requiring buffering, landscaping, fencing, site or structural redesign or use of particular construction materials.

For section 287A it is intended that specific thresholds will be set out in the *Integrated Planning Regulation 1998*. These thresholds will determine what development the chief executive will be able to assess and condition when acting as an assessment manager or referral agency under the *Integrated Planning Act 1997*. It is intended that conditions placed on development applications by the chief executive under this section will comply with provisions regarding conditions under the *Integrated Planning Act 1997* (Division 6). The *Integrated Planning Act 1997* (Chapter 4) provides rights of appeal for conditions applied to development under the Act.

New subsection 287A(5) explicitly provides that the chief executive's powers do not apply to development in a State Development Area under the *State Development and Public Works Organisation Act 1971*.

The purpose of s 287B is to give the chief executive the power to make guidelines regarding the maintenance of the safety and operational integrity of ports and mitigation of environmental emissions generated from a port.

Subsection 287B(1) provides that a person must have regard to any guidelines made by the chief executive when carrying out development under the *Integrated Planning Act 1997*. Subsection 287B(2) requires the chief executive to give a copy of the guidelines to each local government affected by the guidelines. This is to facilitate transparent decision making about matters relating to the safety and operational integrity of ports and mitigation of environmental emissions generated from a port.

Clause 12 inserts a new chapter 15, part 2, division 1 heading by inserting, before section 470, Division 1 Preliminary.

Clause 13 inserts a new chapter 15, part 2, division 2 heading by inserting, after section 471, Division 2 Waterway transport management plans.

Clause 14 inserts a new chapter 15, part 2, divisions 3 and 4 after section 475.

Division 3 (Authorised persons for waterway transport management plans) inserts a number of new sections into the Act. Division 3 provides for certain persons to be authorised persons for the purposes of waterway transport management plans and includes:

New section 475A (Authorised persons) (1)(a) and (b) lists who is an authorised person under the Act as being: a police officer (in keeping with section 14 of the *Police Powers and Responsibilities Act 2000*) and an inspector under the *Fisheries Act 1994*, when there is an arrangement between the chief executive and the chief executive of the department that administers that Act. Subsection 475A(2) provides that the chief executive may appoint an officer of the department or any other person as an authorised person, however subsection 475A(3) requires that for this to take place, the chief executive must be reasonably satisfied that the person has the necessary expertise or experience and is therefore considered qualified.

New subsection 475A(4) provides that sections 475B(1)(a), 475B(1)(b), 475C and 475D, which relate to appointment conditions, issuing of identity cards and production of identity cards by authorised officers, do not apply to police officers acting as authorised officers.

New section 475B (Appointment conditions and limit on powers) establishes that an authorised person holds office subject to appointment conditions stated in their instrument of appointment, signed notice by the chief executive given to the person, or regulation, and that this may limit their powers under the Act.

New section 475C (Issue of identity card to each authorised person) provides that each authorised person must be issued an identity card by the chief executive, and that the identity card must contain a recent photo of the person, a copy of their signature, identify them as an authorised person under the Act, and state the expiry date of the card. Subsection 475C(3) provides that the requirements of section 475C do not prevent a single identity card being issued to a person for this Act and other purposes.

New section 475D (Production or display of identity card) establishes the requirements for production or display of identity cards and requires that

when an authorised person exercises a power under the Act in relation to a person, they produce their identity card for inspection before exercising the power or have the identity card on display and clearly visible to the person while they are exercising the power. Subsection 475D(2) provides that when it is impractical to comply with the requirements of section 475D, the authorised person must produce their identity card for inspection by the person at their first reasonable opportunity.

New subsection 475D(3) establishes that under section 475D(1), an authorised person does not necessarily exercise power under this Act in relation to a person simply because they have entered a 'place' as defined in section 475H (which defines a 'place' as including land, a building or other structure, or part of a building or other structure of any type, a group of buildings or other structures, or part of a group of buildings or other structures of any type, and watercraft).

New section 475E (When authorised person ceases to hold office) establishes the conditions for which an authorised person ceases to hold office.

New 475F (Resignation) establishes that an authorised person may resign by signed notice given to the chief executive.

New section 475G (Return of identity card) establishes that a person who has ceased to be an authorised person must return their identity card to the chief executive within 21 days of ceasing to be an authorised person, unless they have a reasonable excuse. The maximum penalty for non-compliance is 40 penalty units.

Division 4 (Powers of authorised persons). The purpose of division 4 is to provide for the appointment of authorised persons for the enforcement of waterway transport management plans. Division 4 includes:

New section 475H (Definitions for div 4) specifies the definitions of *occupier* and *place* for the purposes of Division 4.

New section 475I (Power to enter places) establishes that authorised persons have power to enter a place if the occupier consents to the entry or they are authorised by a warrant. Subsection (2) establishes that in order to ask the occupier for consent to enter, the authorised person may, without consent from the occupier or a warrant, enter land around the premises at the place to an extent that is reasonable in order to contact the occupier, or enter part of the place they reasonably consider that members of the public

would ordinarily be allowed to enter when they wish to contact the occupier.

New section 475J (Procedure for entry with consent) establishes the procedure for an authorised officer to enter a place with consent from the occupier. Section 475J establishes that before asking for consent from the occupier, the authorised person must advise of the purpose of their entry and that the occupier is not required to provide consent. Subsection 475J(3) provides that if consent is given, the authorised person may ask the occupier to sign an acknowledgement of this consent. The requirements of this acknowledgement are established by subsection 475J(4). Subsection 475J(5) states that an authorised person must immediately give to the occupier a copy of the acknowledgement if the occupier signs it. Subsection 475J(6) provides that if occupier consent to the entry of an authorised person is disputed, the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

New section 475K (Application for warrant) states that an authorised person may apply to a magistrate for a warrant relating to a place, and that such an application must be sworn and state the grounds on which the warrant is sought. Under subsection 475K(3) a magistrate may choose to refuse consideration of the application until all the required information is given to them (for example, the magistrate may require additional information supporting the application to be given by statutory declaration).

New section 475L (Issue of warrant) requires that a magistrate may only issue a warrant if they are satisfied that there are reasonable grounds to suspect that there is a particular thing or activity that may provide evidence of an offence against a waterway transport management plan, and the evidence is or may be at the place within the next 7 days. Subsection 475L(2) requires that the warrant must state:

- that an authorised person may enter the place and any other place necessary and exercise their powers under the Act (with necessary and reasonable help and force);
- the offence that the warrant is being sought for;
- the evidence that may be seized under the warrant;
- the hours during which the place can be entered; and
- the date the warrant ends (which must be within 14 days of the warrant's issue).

New section 475M (Warrants – procedure before entry) provides the procedures an authorised person, named in a warrant, is required to undertake before seeking entry to a place. Before entering the place, subsection 475M(2) requires that the authorised person must, or make a reasonable attempt to:

- identify himself or herself to the occupier by producing a copy of their identity card;
- give the person a copy of the warrant;
- tell the person that the warrant permits the authorised person to enter the place; and
- give the person the opportunity to allow the authorised person immediate entry to the place without using force.

Subsection 475M(3) provides that an authorised person does not have to comply with subsection (2) if they reasonably believe that immediate entry to the place is necessary in order to effectively execute the warrant. Subsection 475M(4) notes that section 475M(2)(a) does not apply to police officers, in keeping with section 637 of the *Police Powers and Responsibilities Act 2000*.

New section 475N (General powers after entering places) establishes the general powers available to an authorised person after they have entered a place, and applies to authorised persons who enter a place in keeping with division 4 of the *Transport Infrastructure Act 1994*. Subsection 475N(2) provides that if an authorised person enters a place to ask for the occupier's consent to enter a place, under section 475I(2), Division 4 only applies if consent is given or entry otherwise authorised. Subsection 475N(3) sets out the actions that an authorised person may take. Subsection 475N(4) sets out the requirements if an authorised person takes a sample or thing for analysis and requires that the authorised person must provide a receipt for the sample or thing taken to the person in charge of the thing or place from which it was taken, and that in the case of a sample or thing with an intrinsic value, it must be returned to the person who appears to be the owner or person in charge of the thing or place from which it was taken, at the end of 6 months (under section 475V, however, there is a power providing for forfeiture of the same or thing to the State in particular circumstances). Subsection 475N(5) establishes, that if it is not practicable to comply with the subsection (4)(a) requirement for giving a receipt to the person in charge of the thing or place, the authorised person must leave the

receipt at the place in a conspicuous position and in a reasonably secure way.

New section 475O (Power to require reasonable help or information) provides that an authorised person has the power to require the occupier or anyone else at a place to give reasonable help in exercising the powers under section 475N(3)(a) to (e), to search a place. This does not, however, include a requirement to produce a document or give information, under subsection 475O(3). Subsection 475O(2) provides that a person must comply with this requirement unless they have a reasonable excuse. The maximum penalty for non-compliance is 20 penalty units.

New section 475P (Notice of intention to remove watercraft) provides that if an authorised person reasonably believes a watercraft is anchored or moored in contravention of a waterway transport management plan, they may give the watercraft's owner or operator a notice of intention to remove the watercraft. Subsection 475P(2) provides that the notice must state the contravention and that the watercraft may be removed by an authorised person if the watercraft is not moved within 14 days after notice is given, to a place that is not in contravention of a waterway transport management plan.

New section 475Q (Removing illegally anchored or moored watercraft) allows an authorised person to take the steps that are necessary and reasonable to have a watercraft (and anything in, on or attached to it) removed to a place that is not in contravention of a waterway transport management plan. Under subsection 475Q(1), the authorised person may only take these steps if:

- a notice of intention to remove a watercraft has been given (in keeping with section 475P);
- after 14 days of the notice being given the watercraft is still anchored or moored in contravention of a waterway transport management plan; and
- the authorised person cannot immediately find the watercraft's owner or operator or reasonably believes neither the owner or operator is able or willing to move the watercraft immediately.

New section 475R (Removal of hazardous watercraft) establishes that if an authorised person reasonably believes a watercraft is anchored or moored in contravention of a waterway transport management plan and a hazard to water traffic (for example, a watercraft is a hazard to water traffic if it is on

or beside the course of a power boat race conducted under a consent under the *Transport Operations (Maritime Safety) Act 1994*, section 217(2)), the authorised person is able to take steps that are necessary and reasonable to have the watercraft and anything in, on or attached to it removed to a place that is not in contravention of a waterway transport management plan.

New section 475S (Giving notice of removal of watercraft) requires the chief executive to give written notice to a watercraft's owner of the place where it has been taken if the watercraft is removed in keeping with sections 475Q or 475R. Subsection 475S(2) provides that where the chief executive is unable to find the owner, the chief executive may instead give notice by publishing it in a newspaper circulating in the locality from which the watercraft was removed. Subsection 475S(3) defines 'watercraft' to include anything in, on or attached to the watercraft, for the purposes of this section.

New section 475T (Dealing with removed watercraft) provides that the chief executive may sell, by public auction, or otherwise dispose of a watercraft, having regard to its value and condition. Subsection 475T(1) provides that the chief executive may only exercise this power if:

- notice has been given, under section 475S, regarding the removal of the watercraft; and
- the watercraft's owner does not take possession of the watercraft and pay the amount of all expenses of removal of the watercraft within 1 month after the notice is given.

Subsection 475T(3) defines 'expenses of removal' as expenses relating to removing and detaining the watercraft, giving notice under section 475S, advertising for sale or other disposal of the watercraft, and selling or otherwise disposing of the watercraft. Subsection 475T(3) also defines 'watercraft' to include anything in, on or attached to the watercraft.

New section 475U (Proceeds from the sale of removed watercraft) outlines the requirements for applying proceeds from the sale of removed watercraft, having been sold in accordance with section 475T(2). The proceeds are required to be applied first to the expenses of removal of the watercraft that were reasonably incurred by the chief executive in selling the watercraft, and second, any balance must be paid to the watercraft's owner. Subsection 475U(2) provides that if the proceeds of sale are less than the total expenses of removal, the difference is a debt owing by the owner to the State. Subsection 475U(3) provides that compensation is not recoverable against the State in relation to a payment under this section.

New section 475V (Forfeiture by authorised person) outlines the requirements for forfeiture to the State of a sample or thing taken for analysis under section 475N(3)(c). The section states that if an authorised person who took or arranged the taking of the sample or thing cannot return the sample or thing to its owner after making reasonable efforts, or cannot find its owner after making reasonable inquiries, the sample or thing is forfeited to the State. In order to meet these requirements, the authorised person, under subsection 475V(2), is not required to make unreasonable efforts or inquiries to return the sample or thing to its owner (for example, where the owner of the sample or thing has migrated to another country). Subsection 475V(3) provides that in deciding whether it is reasonable to make efforts or inquiries, and what efforts and inquiries are considered reasonable (including the period of time over which efforts and inquiries are made), regard must be had to the condition, nature and value of the sample or thing. Subsection 475V(4) defines ‘owner’ of a sample or thing to mean the person in charge of the sample or thing or place from which it was taken, for the purposes of this section.

New section 475W (Dealing with forfeited sample or thing) establishes that the chief executive may deal with forfeited property in a way that the chief executive reasonably believes is appropriate, as a forfeited sample or thing becomes the property of the State. Subsection 475W(2) states that the chief executive may destroy or dispose of the sample or thing, but this subsection is not intended to limit the operation of subsection (1).

New section 475X (Direction to stop contravening plan) establishes that an authorised person has the power to give a person a direction to immediately stop contravening the waterway transport management plan, if the authorised person considers that the person is not complying with a provision of a plan. It is a requirement of this section that the authorised person must tell the person that it is an offence to fail to comply with such a direction, unless the person has a reasonable excuse. The maximum penalty for non-compliance is 40 penalty units.

New section 475Y (Power to require name and address) provides that an authorised person may require a person to state their name and residential address (under subsection 475Y(2)) if the authorised person finds the person committing an offence against a waterway transport management plan or finds a person in circumstances that lead, or has information about a person that leads, the authorised person to reasonably suspect the person has just committed an offence against a plan. Subsection 475Y(3) requires the authorised person to warn the person that it is an offence to fail to state

the person's name or residential address, unless they have a reasonable excuse. Subsection 475Y(4) states that the authorised person may also require the person to give evidence of the correctness of the stated name or residential address if the authorised person reasonably suspects that the stated name or address is false. Under subsection 475Y(5), the requirements under subsections (2) and (4) must be complied with by the person to whom the requirement is made unless they have a reasonable excuse. The maximum penalty for failing to comply with these requirements is 20 penalty units. Under subsection 475Y(6), it is established that a person has not committed an offence under subsection (5) if the requirement was given because the authorised person reasonably suspected that the person had committed an offence and the person is not actually proved to have committed the offence.

New section 475Z (False or misleading statements) requires that a person must not state anything to an authorised person in relation to that authorised person's exercise of power under this division, that the person knows is false or misleading in a material particular. The maximum penalty for failing to comply with this requirement is 20 penalty units. For the purposes of subsection (1), subsection 475Z(2) states that in a proceeding for an offence regarding false or misleading statements, it is enough to state that the statement made was 'false or misleading' to the person's knowledge, without specifying which.

New section 475ZA (False or misleading documents) requires that a person must not give an authorised person a document containing information that the person knows is false or misleading in a material particular. The maximum penalty for failing to comply with this requirement is 20 penalty units. Subsection 475ZA(2) provides that subsection (1) does not apply when the person tells the authorised person, to the best of the person's ability, how the document is false and misleading, and if the person has or can reasonably obtain the correct information – gives the correct information to the authorised person. For the purposes of subsection (1), subsection 475ZA(3) states that in a proceeding for an offence regarding false or misleading documents, it is enough to state that the document made was 'false or misleading' to the person's knowledge, without specifying which.

New section 475ZB (Obstruction of authorised person) requires that a person must not obstruct an authorised person in relation to their exercise of power under this Act, unless they have a reasonable excuse. The maximum penalty is 20 penalty units. Under subsection 475ZB(2), if the

person has obstructed an authorised person and the authorised person decides to proceed with the exercise of the power, the authorised person is required to warn the person that it is an offence to obstruct them unless they have a reasonable excuse and that the authorised person reasonably believes the person's conduct is an obstruction. Under subsection 475ZB(3), 'obstruct' includes assault, hinder, resist and attempt or threaten to obstruct, for the purpose of this section.

New section 475ZC (Impersonating an authorised person) requires a person not to pretend to be an authorised person, the maximum penalty for such an offence is 40 penalty units.

New section 475ZD (Notice of damage) establishes that if an authorised person damages something when exercising or purporting to exercise a power under this division, or another person acting under the direction or authority of an authorised person damages something, it is required that the authorised person give a signed notice to the person who appears to be the owner or person in possession of the thing. Subsection 475ZD(3) provides that where it is not practicable to comply with this requirement, the authorised person must instead leave the notice in a conspicuous position and in a reasonably secure way at the place where the damage happened. Subsection 475ZD(4) outlines the further requirement that the notice must state the particulars of the damage. Subsection 475ZD(5) provides that if the authorised person reasonably believes that the damage was caused by a latent defect in the thing, or other circumstances beyond their control, that they may state this belief in the notice. Subsection 475ZD(6) provides that if the authorised person considers the damage to be trivial, they need not comply with this section.

New section 475ZE (Protection from liability) establishes that an authorised person has no civil liability for an act or omission done honestly and without negligence under this division, and that this liability instead attaches to the State.

Clause 15 inserts a new chapter 18, part 13 dealing with transitional provisions for this Bill.

Division 1 (Prescribed development applications) has new sections 553 and 554. New section 553 (Application of s 258 to prescribed development applications) inserts a transitional provision mandating that subsection 258(2)(b) and subsection 258(3), to the extent that subsection 258(2)(b) applies, do not apply to a prescribed development application made before the commencement of the section or within 6 months after the

commencement. This is to ensure that developers are given adequate notice of the new requirements.

New section 554 is a transitional provision mandating that section 287A does not apply to a prescribed development application made before the commencement of the section or within 6 months after the commencement. This is to ensure that developers are given adequate notice of the new requirements.

Division 2 (Waterway transport management plans) includes new section 555.

New section 555 (Amendment of waterway transport management plan by the Amending Act does not affect powers of Minister and Governor in Council) inserts a provision that states any amendment of a waterway transport management plan by this amending Act does not affect the power of the Minister to further amend or repeal such plans. It also states that it does not affect the power of the Governor in Council to approve matters amended or repealed by the Minister. The section also includes definitions of *amending Act* and *a waterway transport management plan* for clarity.

Part 4 **Amendment of Transport Operations (Marine Safety) Act 1994**

Clause 16 provides that part 4 amends the *Transport Operations (Marine Safety) Act 1994*.

Clause 17 amends section 88 (Direction to master about operation of ship in relation to pilotage area) to clarify that the direction can apply to a ship in, or adjacent to, the pilotage area.

Clause 18 inserts a new part 14A (General manager's powers of direction). New section 191A enables the general manager to direct the master of a ship to navigate or otherwise operate the ship in relation to a pilotage area in a specified way.

New section 191B (Direction to person in charge of a place) enables the general manager to direct a person in charge of a place to allow a ship to be berthed or moved and to allow access through the place to and from the

ship. This section applies if the general manager has issued a direction to the master of a ship under new section 191A(2).

Clause 19 amends the Dictionary to provide that sections 191A(8) and 191B(3) are notice offences.

Part 5 **Amendment of Transport Operations (Passenger Transport) Act 1994**

Clause 20 provides that part 5 and the schedule amend the *Transport Operations (Passenger Transport) Act 1994*.

Clause 21 amends section 10 (Obligations about public passenger transport). This amendment aligns the references to best practice and national benchmarks in subsection 10(1)(a)(i) to similar references in the Bill's clause 7 amendment to the *Transport Infrastructure Act 1994*.

Clause 22 amends section 79 (Suspension and cancellation of taxi service licences). Section 79(2) has a new subsection (c) inserted to provide for a regulation to be made that would allow a taxi service licence to be suspended or cancelled for the non-payment of a taxi industry security levy.

Clause 23 amends section 94 (Preparation of draft standard). This amendment aligns the standard making requirements with the Act references to best practice and national benchmarks.

Clause 24 inserts new chapter 13, part 8 to provide for a transitional provision. New section 183 (Amendment of regulation by *Transport and Other Legislation Amendment Act 2009* does not affect powers of Governor in Council). This amendment provides that any amendment of the *Transport Operations (Passenger Transport) Regulation 2005* by this Bill does not affect the powers of the Governor in Council to make further amendments to the regulation or to repeal it.

Clause 25 amends Schedule 1A (Driver disqualification offences). Subsection (1) amends part 1, division 1, item 1, in the schedule to make unlawful sodomy a category A offence unless, when the offence was committed, the offender was aged between 17 and 20 (both inclusive) and

the person in relation to whom the offence was committed was not a person with an impairment of the mind and was aged between 14 and 17 (both inclusive). Subsection (2) amends part 1, division 1, item 2, to make indecent treatment of children under 16 a category A offence unless, when the offence was committed, the offender was aged between 17 and 20 (both inclusive) and the person against whom the offence was committed was aged between 14 and 20 (both inclusive). Subsection (3) amends part 1, division 1, item 4, to make carnal knowledge with, or of, children under 16 a category A offence unless, when the offence was committed, the offender was aged between 17 and 20 (both inclusive) and the person against whom the offence was committed was aged between 14 and 20 (both inclusive).

Clause 26 amends schedule 3 (Dictionary). Subsections (1) and (2) amend the definition of a *category A driver disqualifying offence* to clarify that category A offences, as defined, are offences committed by a person when they were at least 17 years, except where an offence within schedule 1A, part 1 is subject to a qualification relating to the provision. Subsection (3) removes “or” from the end of paragraph (b) as this is redundant. Subsection (4) replaces the existing definition of a *category B driver disqualifying offence* to include the qualification that offences listed in schedule 2 or 2A of the *Commission for Children and Young People and Child Guardian Act 2000* are subject to any qualification relating to the offence mentioned in the schedule. The new definition also includes a qualification for offences against an act mentioned in schedule 1A, part 2, subject to any qualification relating to the provision mentioned in the part. The new definition makes clear that an offence mentioned in paragraphs (a), (b) or (c) of the definition of a category A driver disqualifying offence is a category B driver disqualifying offence if it was committed by a person who was under 17 years at the time.

Part 6 **Amendment of Transport Operations (Passenger Transport) Regulation 2005**

Clause 27 provides that the regulation amended in part 6 is the *Transport Operations (Passenger Transport) Regulation 2005*.

Clause 28 amends section 55 (Amendment, suspension and cancellation of taxi service licences—Act, ss 75(1) and 79) by inserting “fees, or a taxi industry security levy, payable for the licence remains” into paragraph (c) of section 55(2). This amendment allows the chief executive to suspend or cancel a taxi service licence if the taxi service licence holder has not paid a taxi industry security levy.

Clause 29 amends the dictionary and includes a new definition for *accommodation house*.

Part 7 **Amendment of Transport Operations (Road Use Management) Act 1995**

Clause 30 provides that part 7 amends the *Transport Operations (Road Use Management) Act 1995* (TORUM Act).

Clause 31 amends section 31 of the TORUM Act. Section 31 allows authorised officers who are not police officers to require the person in control of a private vehicle to stop the vehicle in certain circumstances. The chief executive has appointed transport inspectors as authorised officers under section 20 of the TORUM Act. Section 31 is being amended to allow transport inspectors to stop a private vehicle between 6am and 7pm on business days if the inspector reasonably believes the driver of the vehicle has just committed or is committing an offence against the Queensland Road Rules (QRR), section 154(1) or 156(1). Those sections of the QRR make it an offence to drive a vehicle other than a bus, taxi or bicycle in a bus lane and to drive in a transit lane without the specified minimum number of persons in the vehicle unless the vehicle is a bicycle, bus, taxi or motorcycle.

Clause 32 amends section 48 of the TORUM Act. Section 48 allows an authorised officer to require a person to state their name and address if the officer finds the person committing, or reasonably suspects that a person has just committed, an offence against a transport Act. The amendment to section 48(1)(b) inserts an example to put it beyond doubt that the power to require a person's name and address applies to offences against the QRR, including driving in a bus lane or transit lane under section 154(1) or 156(1) of the QRR.

Clause 33 amends section 49 of the TORUM Act. Section 49 allows an authorised officer to require a person to produce for inspection a document issued, or required to be kept, by the person under a transport Act or corresponding law, including an Australian driver licence. Currently, only an authorised officer who is a police officer may require the driver of a private vehicle to produce their licence. The amendments to section 49 allow transport inspectors to require the driver of a private vehicle to produce their driver licence if the inspector reasonably believes the driver has just committed or is committing an offence against section 154(1) or 156(1) of the QRR. Those sections of the QRR make it an offence to drive a vehicle other than a bus, taxi or bicycle in a bus lane and to drive in a transit lane without the specified minimum number of persons in the vehicle unless the vehicle is a bicycle, bus, taxi or motorcycle. In line with section 58 of the *Police Powers and Responsibilities Act 2000* (PPRA), a person who holds an open driver licence, but is not carrying it, may produce the licence within two business days to an office of the Department of Transport and Main Roads (DTMR) nominated by the transport inspector, usually a DTMR Customer Service Centre. The PPRA provision allows 48 hours to produce a licence at a police station, but as offices of DTMR are not open on weekends and public holidays, two business days is considered appropriate.

Clause 34 inserts a new section 170A into the TORUM Act. Proposed section 170A(1) provides that the amendments in clauses 31 and 33 of the Bill expire on 31 March 2011. As outlined above, those amendments give additional powers to transport inspectors to enforce restrictions applying to the use of bus and transit lanes. It is intended that the additional powers for transport inspectors are granted for a trial period and proposed section 170A(1) provides for this.

The trial of enforcement of bus and transit lane restrictions by transport inspectors is to occur in 2010. If the trial is successful, the TORUM Act

would need to be amended to remove section 170A and sufficient time needs to be allowed for an amending Bill to do this.

Proposed section 170A(2) allows a regulation to be made extending the expiry date for the powers until 31 March 2012. A regulation made under section 170A(2) simply facilitates the additional time needed to bring a Bill back to Parliament to remove section 170A and would only be made if the powers are to be continued.

If the trial is unsuccessful, sections 170A(1) and (3) would apply and no further action would be needed. Proposed section 170A(3) makes technical drafting amendments so that provisions amended by this Bill related to the enforcement of transit and bus lane restrictions by transport inspectors revert to the wording that applied before the introduction of the Bill.

Part 8 **Amendment of Transport Planning and Coordination Act 1994**

Clause 35 provides that part 8 amends the *Transport Planning and Coordination Act 1994*.

Clause 36 amends section 3 (Definitions) by inserting a definition for *public passenger service* and *public passenger vehicle*. To ensure consistency within the transport acts, the definitions of *public passenger service* and *public passenger vehicle* are cross-referenced to the definitions of *public passenger service* and *public passenger vehicle* in the *Transport Operations (Passenger Transport) Act 1994*, schedule 3.

Clause 36(1) also amends section 3 (Definitions) to insert a definition of the term *public passenger transport*.

Clause 36(2) omits the definition of *public passenger transport infrastructure* and inserts a new definition of *public passenger transport infrastructure*. The new definition clarifies the scope of the phrase ‘transit terminal for public passenger services’ by including a list of examples. It is intended that the definition of *public passenger transport infrastructure* include an airport terminal, coach terminal and cruise ship terminal.

Clause 37 amends section 8A (Object of part 2A). Clause 37(2) clarifies that subsection 8A(2)(a):

- identifies a consequence of a significant impact on public passenger transport infrastructure will be a significant impact on public passenger transport; and
- provides that the Department of Transport and Main Roads can ensure development does not have a significant adverse impact on public passenger transport infrastructure where the impact on the infrastructure will be a significant impact on the public passenger transport.

Clause 37(2) also inserts a new subsection 8A(2)(b) to insert a new chief executive's responsibility when land in the vicinity of existing and future public passenger transport is proposed to be developed. Specifically, new section 8A(2)(b) provides that when a development is proposed in the vicinity of existing or future public passenger transport, the chief executive is responsible for ensuring that development addresses adverse impacts on the development from environmental emissions generated by existing and future public passenger transport.

New section 8A(2)(b) recognises environmental emissions generated from public passenger transport such as noise, dust, odour and light can have an adverse impact on the health and wellbeing of the community living or working in close proximity to public passenger transport, if measures are not undertaken to mitigate such impacts. In cases where a development is proposed in an area that is (or will be) affected by environmental emissions from public passenger transport, new section 8A(2)(b) provides that the chief executive is responsible for ensuring that a developer considers the impacts on future occupiers or users of the development resulting from transport generated environmental emissions and includes measures to mitigate such impacts where required.

Additionally, new section 8A(2)(b) enables the chief executive to make an assessment about the extent to which a development application satisfies the above mentioned purpose when acting as an assessment manager or referral agency under the *Integrated Planning Act 1997*. This means that when acting as an assessment manager or referral agency the chief executive may place a condition on a development application requiring the developer to mitigate any adverse impacts on the health and wellbeing of the development's occupiers or users resulting from locating the

development on land affected by environmental emissions from existing or future public passenger transport.

For example, conditions may be imposed to ensure adverse impacts from transport generated environmental emissions (such as noise, dust, odour and light) are mitigated to safe standards by, for example, requiring buffering, landscaping, fencing, site or structural redesign or use of particular construction materials.

It is intended that the chief executive's powers under new section 8A(2)(b) are limited to the specific thresholds for determining what development the chief executive can assess and condition set out in the *Integrated Planning Regulation 1998*. It is intended for conditions placed on development applications by the chief executive under this section to comply with provisions regarding conditions under the *Integrated Planning Act 1997* (Division 6). The *Integrated Planning Act 1997* (Chapter 4) provides rights of appeal for conditions applied to development under the Act.

Part 9 Amendment of Transport Security (Counter-Terrorism) Act 2008

Clause 38 provides that part 9 amends the *Transport Security (Counter-Terrorism) Act 2008*.

Clause 39 amends the Dictionary by inserting a definition for *law enforcement agency*. The definition provides that a law enforcement agency includes the Australian Federal Police, a police force or service of another State, a department of government, agencies, authorities, commissions, instrumentalities, offices or other entities of any State or the Commonwealth established for law enforcement or counter-terrorism purposes. The definition clearly provides that a part of an entity is also included, as are the officers, employees or members of any of the entities mentioned in the definition.

Part 10 Other amendments

Clause 40 provides that the Acts and regulations mentioned in the schedule are amended. These are all minor amendments to correct cross references, amend typographical errors or update definitions.

Schedule Legislation amended

State Penalties Enforcement Act 1999

Part 10 insert—division 5 “Transitional provision for Transport and Other Legislation Amendment Act 2009”. This provides that any amendment of the *State Penalties Enforcement Regulation 2000* by this amending Act does not affect the power of the Governor in Council to further amend the regulation, or to repeal it.

State Penalties Enforcement Regulation 2000

1. Schedule 3 – omit ‘Cairns Port Authority’; insert ‘Far North Queensland Ports Corporation Limited’.
2. Schedule 3 – insert ‘Authorised person for service of infringement notices - an authorised person for a waterway transport management plan under the Transport Infrastructure Act 1994, section 475A’. This replaces a reference to the *Transport Infrastructure (Gold Coast Waterways) Management Plan 2000*.
3. Schedule 3 – insert ‘Authorised person for service of infringement notices - an authorised person for a waterway transport management plan under the Transport Infrastructure Act 1994, section 475A’. This replaces a reference to the *Transport Infrastructure (Sunshine Coast) Waterways Management Plan 2000*.
4. Schedule 3 – insert ‘Authorised person for service of infringement notices - an authorised person for a waterway transport management plan under the *Transport Infrastructure Act 1994*, section 475A’. This replaces a reference to the *Transport Infrastructure (Yeppoon Waterways) Management Plan 2000*.

Transport Infrastructure Act 1994

1. Section 49(3)(a) – omit ‘or’.

2. Section 64 – omit ‘subsection’, insert ‘section’.
3. Sections 85B(2) and 93A(2) – omit ‘section 45’, insert ‘section 71’. This corrects a cross reference.
4. Section 105B – definition final notice, omit ‘section 105GF(3)’, insert ‘section 105GE(4)’.
5. Section 105GA(5) – omit ‘Act’, insert ‘section’.
6. Section 105ZC(4)(c) – omit section ‘105ZB(4)’, insert ‘section 105ZB(1)’.
7. Section 182(1)(a) – omit ‘or’, insert ‘and’.
8. Section 262 – omit ‘(Conditions must be reviewed)’, insert ‘(Reviewing imposed conditions of lease)’.
9. Section 336(2)(b) – definition *emergency service*, omit ‘Authority’, insert ‘Service’.
10. Section 336(2)(d) – definition *emergency service*, omit ‘Services’, insert ‘Service’.
11. Section 374(1)(b) – omit ‘owing’, insert ‘owning’. This corrects a typographical error.
12. Section 403(5)(b) – omit ‘division’, insert ‘chapter’.
13. Section 463(1)(a) – omit ‘chapter 7’, insert ‘chapter 8’. This corrects a cross reference.
14. Section 481(d) and (e) – renumber as section 481(b) and (c).
15. Section 486, hdg, after ‘Act’, second mention – insert ‘1991’. This provides for the full title of the referred legislation.
16. Section 492, hdg, after ‘Act’ – insert ‘1976’. This provides for the full title of the referred legislation.
17. Schedule 2, item 8 – omit.
18. Schedule 2, items 9 and 10 – renumber as items 8 and 9.
19. Schedule 6, definitions *access*, *dangerous goods* (first occurring), *declaration*, *establishment*, *interference*, *land* and *place* – omit.
20. Schedule 6, insert definitions for *court*, *data logger recording*, *data logger recording information*, *declaration*, *extractive material*, *land*,

occupier, permitted road access location, place, road access location and waterway transport management plan.

21. Schedule 6, definition *ancillary works and encroachments*, omit 'for'.
22. Schedule 6, definition *authorised person* paragraphs (a) and (b) – omit the current definition and insert a new definition for *authorised person*.
23. Schedule 6, definition *local government tollway corridor land*, after 'part 8', insert a reference to 'and section 249'.
24. Schedule 6, definition *Queensland Competition Authority*, omit 'section 5' and insert 'section 7'.
25. Schedule 6, definition *road access works*, omit 'for'.
26. Schedule 6, definition *wild river area*, omit '2'.

Transport Infrastructure (Gold Coast Waterways) Management Plan 2000

1. Parts 10 and 11 – omit.
2. Schedule 1, part 1, hdg, after 'floodways' insert ','.
3. Schedule 4, omit 'section 14', insert 'section 13'. This corrects a cross reference.
4. Schedule 6, omit definitions *film* and *photograph*.

Transport Infrastructure (Sunshine Coast Waterways) Management Plan 2000

1. Parts 11 and 12 – omit.
2. Schedule 5, omit definitions *film* and *photograph*.

Transport Infrastructure (Yeppoon Waterways) Management Plan 2000

1. Part 5 – omit 'Part 5' first and second occurring. These provisions have been moved to the *Transport Infrastructure Act 1994*.

Transport Operations (Passenger Transport) Act 1994

1. Section 6(4), omit from 'SEQTA' to '1994', and insert 'TransLink area under the *Transport Operations (TransLink Transit Authority) Act 2008*'.
2. Section 155, hdg, omit 'Regulations' and insert 'Regulation-making power'.
3. Chapter 13, part 5, renumber as 'part 6'. This corrects a typographical error.

4. Section 180, renumber as '181'. This corrects a typographical error.
5. Schedule 3, omit definition *accommodation house*.

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