

Queensland



**TRANSPORT
INFRASTRUCTURE
AMENDMENT BILL 1994**

Queensland



**TRANSPORT INFRASTRUCTURE
AMENDMENT BILL 1994**

TABLE OF PROVISIONS

Section	Page
1 Short title	6
2 Commencement	6
3 Amended Act	6
4 Amendment of s 4 (Definitions)	6
5 Insertion of new Chapter	7
CHAPTER 5A—PORT INFRASTRUCTURE	
PART 1—PRELIMINARY	
61A Definitions	7
PART 2—CONTINUATION, ESTABLISHMENT AND ABOLITION OF PORT AUTHORITIES	
61B Continuation of port authorities	8
61C Establishment of new port authority	8
61D Abolition of port authority	9
61E Transfer of management of a port	9
61F Regulation may make transitional arrangements	10
61G Management of port by State or local government	10
61H Regulation may define port limits etc.	10
PART 3—FUNCTIONS AND POWERS OF PORT AUTHORITIES	
61I Functions of port authorities	11
61J Powers of port authorities subject to Marine Safety Act	11
61K Powers of port authorities	12
61L Additional powers	12
61M Power to impose charges	14

Transport Infrastructure Amendment

	61N Copies of additional functions or powers to be available	14
	61O Liability for charges	15
	61P Liability for damage	15
	PART 4—LAND MANAGEMENT	
	<i>Division 1—Strategic port land</i>	
	61Q Land use plans	15
	61R Consultation on land use plans	16
	61S Approval of land use plans	16
	61T Strategic port land not subject to zoning requirements	17
	61U Use of strategic port land to be consistent with approved land use plan	17
	<i>Division 2—General</i>	
	61V Restrictions on dealing in property	18
	PART 5—GENERAL	
	61W Protection from liability	19
	61X Carrying on port activities outside port limits	19
	61Y Offences	19
	61Z Payment of charges and interest on unpaid charges	20
	61ZA Transitional provisions applying in relation to port authorities that are candidate GOCs	20
	61ZB Application of rating Acts	21
	61ZC Notices at entrances	21
6	Insertion of new ss 65A and 65B	22
	65A Proceedings for offences	22
	65B Attempts to commit offences	23
7	Amendment of Ch 7, heading	23
8	Amendment of Ch 7, Pt 1, heading	23
9	Amendment of s 70 (Definitions)	23
10	Insertion of Ch 7, new Pts 2 and 3	23
	PART 2—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT PORTS	
	90 Interpretation	24
	91 Continuation of harbours under Harbours Act or port under	

Transport Infrastructure Amendment

	Port of Brisbane Authority Act etc.	24
92	Ports of port authorities	24
93	Airport funds	25
94	Funds under Harbours Act or Port of Brisbane Authority Act	25
95	Harbour dues	26
96	Management of certain boat harbours	26
97	Harbour and industrial lands	26
98	Submission of land use plans	27
99	Harbours Corporation of Queensland	27
100	Queensland Sugar Corporation funds	28
101	Continuation of Inscribed Stock Regulations	28
102	Continuation of certain by-laws	29
103	Continuation of certain provisions of Harbours Act about land	30
104	Continuation of certain provisions of Harbours Act about jetties and ramps etc.	31
105	Continuation of certain provisions of Harbours Act requiring approval for certain matters	32
106	Continuation of certain provisions of Harbours Act about Queensland Sugar Corporation	33
107	Continuation of s 62A of Harbours Act	34
108	Continuation of Pt 5, Div 2 of Port of Brisbane Authority Act	34
109	Leases and licences under s 65 of Harbours Act	34
110	Lease mentioned in Harbours Acts Amendment Act 1968	35
111	Delegations	35
112	Special transitional provisions for former Ports Corporation of Queensland employees	36
113	Application of s 20A, Acts Interpretation Act to this Part	36
PART 3—GENERAL SAVINGS AND TRANSITIONAL PROVISIONS		
<i>Division 1—Transition of references about roads</i>		
114	Application of Division	37
115	Transport Infrastructure (Roads) Act 1991 references	37
116	Main Roads Act 1920 references	37

Transport Infrastructure Amendment

117	Commissioner of Main Roads references	37
118	Declared road references	37
119	Motorway references	38
120	Main Roads Fund references	38
<i>Division 2—Transition of references about ports</i>		
121	Application of Division	38
122	Harbours Act 1955 and Port of Brisbane Authority Act 1976 references	38
123	Harbour board references	38
124	Harbour references	38
125	Harbours Corporation and Harbours Trust references	39
126	Gold Coast Waterways Authority references	39
<i>Division 3—Transition of references about railways</i>		
127	Application of Division	40
128	Railways Act 1914 references	40
129	Commissioner for Railways references	40
130	Railways Department references	40
<i>Division 4—General</i>		
131	Application of s 32A, Acts Interpretation Act	40
11	Renumbering of Ch 7, Pt 2	41
12	Renumbering of s 90	41
13	Amendment of Sch 3	41
14	Amendments of other Acts	41
15	Repeals	41
SCHEDULE 1		42
AMENDMENT OF ACTS		
TRANSPORT INFRASTRUCTURE (RAILWAYS) ACT 1991		42
TRANSPORT INFRASTRUCTURE (ROADS) ACT 1991		42
TRANSPORT PLANNING AND COORDINATION ACT 1994		42
SCHEDULE 2		43
ACTS REPEALED		

1994

A BILL

FOR

An Act to amend the *Transport Infrastructure Act 1994*, and for other purposes

The Parliament of Queensland enacts—	1
Short title	2
1. This Act may be cited as the <i>Transport Infrastructure Amendment Act 1994</i> .	3 4
Commencement	5
2. This Act commences on 1 July 1994.	6
Amended Act	7
3. This Act amends the <i>Transport Infrastructure Act 1994</i> .	8
Amendment of s 4 (Definitions)	9
4.(1) Section 4(1), definition “ port authority ”—	10
<i>omit.</i>	11
(2) Section 4(1)—	12
<i>insert—</i>	13
‘ “ port ” of a port authority means a port for which the authority is responsible, and includes an airport for which the authority is responsible;	14 15 16
“ port authority ” means—	17
(a) the Ports Corporation of Queensland; or	18
(b) the Port of Brisbane Corporation; or	19
(c) the Gladstone Port Authority; or	20
(d) a harbour board continued in existence by section 61B (Continuation of port authorities); or	21 22
(e) a port authority established under section 61C (Establishment of new port authority); or	23 24

Transport Infrastructure Amendment

(f) another body established under the <i>Government Owned Corporations Act 1993</i> and declared by regulation to be a port authority;	1 2 3
but does not include a port authority that has been abolished under section 61D (Abolition of port authority).’.	4 5
(3) Section 4(2)—	6
<i>insert</i> —	7
‘(aa)for Chapter 5A—section 61A;’.	8
Insertion of new Chapter	9
5. After Chapter 5—	10
<i>insert</i> —	11
‘CHAPTER 5A—PORT INFRASTRUCTURE	12
‘PART 1—PRELIMINARY	13
‘Definitions	14
‘61A. In this Chapter—	15
“candidate GOC” has the meaning given by section 24 of the <i>Government Owned Corporations Act 1993</i> ;	16 17
“charge” means an amount charged by a port authority;	18
“corporate plan” means a corporate plan required by the <i>Government Owned Corporations Act 1993</i> ;	19 20
“extractive material” means sand, gravel, boulders, clay, silt, mud or other material in or on land under tidal water, but does not include a mineral within the meaning of the <i>Mineral Resources Act 1989</i> ;	21 22 23
“GOC” has the meaning given by section 6 of the <i>Government Owned Corporations Act 1993</i> ;	24 25
“land” means any land, whether above or below the ordinary high water mark at spring tides;	26 27

Transport Infrastructure Amendment

“notice” means a notice, sign or pictograph of any type of material and whether fixed or moveable;	1 2
“ship” has the same meaning as in the <i>Marine Safety Act 1994</i> ;	3
“statement of corporate intent” means a statement of corporate intent required by the <i>Government Owned Corporations Act 1993</i> ;	4 5
“strategic port land” means land that is strategic port land under section 61S (Approval of land use plans);	6 7
“vehicle” has the same meaning as in the <i>Traffic Act 1949</i> .	8

‘PART 2—CONTINUATION, ESTABLISHMENT AND ABOLITION OF PORT AUTHORITIES	9 10
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‘Continuation of port authorities	11
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‘61B.(1) The following harbour boards are continued in existence as bodies corporate—	12 13
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|----------------------------------|----|
| • the Bundaberg Port Authority | 14 |
| • the Cairns Port Authority | 15 |
| • the Mackay Port Authority | 16 |
| • the Rockhampton Port Authority | 17 |
| • the Townsville Port Authority. | 18 |

‘(2) Each body corporate continues to have a seal.	19
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‘Establishment of new port authority	20
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‘61C.(1) A regulation may establish a new port authority as a body corporate that has a seal and may sue and be sued in its corporate name.	21 22
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‘(2) A regulation may also—	23
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- | | |
|--|----|
| (a) specify the name of the port authority; or | 24 |
|--|----|

Transport Infrastructure Amendment

- (b) specify the name of the port it is to manage; or 1
- (c) transfer assets and liabilities to the authority. 2

‘Abolition of port authority 3

‘61D.(1) A regulation may abolish a port authority and transfer its 4
functions to another port authority, the State or a local government (the 5
“**transferee**”). 6

‘(2) A regulation may also transfer to the transferee, or to a port 7
authority, the State or a local government, assets and liabilities of the 8
abolished port authority. 9

‘(3) A legal proceeding by or against the abolished port authority about 10
the port, or transferred assets and liabilities, that is unfinished when the 11
relevant regulation commences may be continued and finished by or 12
against— 13

- (a) the transferee; or 14
- (b) if the assets or liabilities concerned are transferred to a person 15
mentioned in subsection (2) who is not the transferee—the 16
person. 17

‘Transfer of management of a port 18

‘61E.(1) A regulation may transfer the management of a port from a port 19
authority, the State or a local government (the “**transferor**”) to a port 20
authority, the State or a local government (the “**transferee**”). 21

‘(2) A regulation may also transfer to the transferee, or to a port 22
authority, the State or a local government, assets and liabilities of the 23
transferor. 24

‘(3) A legal proceeding by or against the transferor about the port, or 25
transferred assets or liabilities, that is unfinished when the relevant 26
regulation commences may be continued and finished by or against— 27

- (a) the transferee; or 28
- (b) if the assets or liabilities concerned are transferred to a person 29
mentioned in subsection (2) who is not the transferee—the 30
person. 31

‘Regulation may make transitional arrangements

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‘61F.(1) If a port authority is established or abolished, or the management of a port is transferred, under this Part, a regulation may make transitional arrangements about the establishment, abolition or transfer.

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‘(2) The transitional arrangements may include—

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(a) arrangements for the transfer of staff, and their superannuation and other entitlements; or

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(b) allowing the transfer of assets and liabilities without payment of stamp duty; or

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(c) other transitional arrangements necessary or convenient for the establishment, abolition or transfer.

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‘Management of port by State or local government

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‘61G. If the State or a local government is given the management of a port under this Chapter, the Minister or the local government has, for the port, all the functions and powers, and all the obligations, of a port authority under this Chapter.

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‘Regulation may define port limits etc.

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‘61H. A regulation may—

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(a) define or amend the limits of a port; or

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(b) give a name to a port or change the name of a port; or

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(c) for a new port—transfer the management of the port to an existing port authority, the State or a local government; or

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22

(d) change the name of a port authority.

23

‘PART 3—FUNCTIONS AND POWERS OF PORT AUTHORITIES

‘Functions of port authorities

‘61I.(1) The functions of a port authority are—

- (a) to establish, manage, and operate effective and efficient port facilities and services in its port; and
- (b) to make land available for—
 - (i) the establishment, management and operation of effective and efficient port facilities and services in its port by other persons; or
 - (ii) other purposes consistent with the operation of its port; and
- (c) to provide or arrange for the provision of ancillary services or works necessary or convenient for the effective and efficient operation of its port; and
- (d) to keep appropriate levels of safety and security in the provision and operation of the facilities and services; and
- (e) to provide other services incidental to the performance of its other functions or likely to enhance the usage of the port; and
- (f) to perform any other functions conferred on it under this or another Act or under the regulations.

‘(2) A port authority’s functions as provided under subsection (1) may be removed, restricted or limited by regulation.

‘Powers of port authorities subject to Marine Safety Act

‘61J. The powers of a port authority under this Chapter, including powers conferred by a regulation, must be exercised subject to the powers of a harbour master under the *Marine Safety Act 1994* about marine safety and navigation.

Transport Infrastructure Amendment

‘Powers of port authorities

‘61K.(1) In addition to the powers a port authority has because of this Chapter or the *Government Owned Corporations Act 1993*, each port authority has all powers necessary or convenient for performing its functions.

‘(2) Without limiting subsection (1), a port authority’s powers include power—

(a) to dredge and otherwise maintain or improve navigational channels in its port; and

(b) to reduce or remove a shoal, bank or accumulation in its port that, in the port authority’s opinion, impedes navigation in its port.

‘(3) A port authority is not liable to pay royalties or similar charges for extractive material removed—

(a) to maintain or improve navigational channels in its port, or improve navigation in its port, if the material is disposed of—

(i) in an area associated with port activities and approved by the Minister; and

(ii) under relevant statutory environmental controls; or

(b) to reclaim land that is, or is proposed to be, strategic port land.

‘Additional powers

‘61L.(1) A regulation may—

(a) allow a port authority to control, whether by using notices, markings, fences, barriers, directions or otherwise—

(i) access to or the use of its strategic port land or port facilities, or access to or the use of areas in its port where activities may affect the port’s operation; or

(ii) the movement or mooring of ships at its port facilities, or the movement or mooring of ships in its port if the movement or mooring may affect the port’s operation; or

(iii) the movement of passengers to or from ships or aircraft using its port facilities or on its port facilities or strategic port

Transport Infrastructure Amendment

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| land; or | 1 |
| (iv) the movement, handling or storage of goods loaded, unloaded or transhipped to or from ships or aircraft using its port facilities or on its port facilities or strategic port land; or | 2
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| (v) the movement, stopping or parking of vehicles, aircraft or trains on its strategic port land or at its port facilities; or | 5
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| (b) allow a port authority to detain, using any necessary and reasonable force, ships, aircraft, goods or vehicles for which the authority's charges are payable until the charges are paid, or to sell the ships, aircraft, goods or vehicles if the charges are not paid; or | 7
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| (c) allow a port authority to require a person to produce documents relevant to the authority's charges, and allow the authority to inspect and make copies of them; or | 12
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| (d) allow a port authority to remove ships, aircraft, vehicles, trains, goods or other property that are— | 15
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| (i) abandoned in its port, on its strategic port land or at its port facilities; or | 17
18 |
| (ii) moored, parked or left against the authority's directions; or | 19 |
| (e) allow a port authority to sell or otherwise dispose of ships, aircraft, vehicles, goods or other property abandoned in its port, on its strategic port land or at its port facilities; or | 20
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| (f) allow a port authority to recover from a prescribed person the costs of doing the actions mentioned in paragraphs (b), (d) and (e); or | 23
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| (g) allow a port authority to enter and inspect ships or inspect aircraft, goods or vehicles on its strategic port land, at its port facilities, or in an area in its port where activities may affect the port's operation, to ensure compliance with this Chapter and, if necessary, enter by passing through land or over facilities under someone else's control; or | 26
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| (h) provide that a breach of a notice mentioned in paragraph (a) is an offence; or | 32
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| (i) confer any other powers on a port authority, including, for | 34 |

Transport Infrastructure Amendment

example, powers similar to those mentioned in this section.	1
‘(2) A regulation under subsection (1) for a port authority applies—	2
(a) in the area mentioned in the relevant paragraph or subparagraph of subsection (1); or	3 4
(b) if no area is mentioned—in its port and its strategic port land;	5
but does not apply outside its port and strategic port land.	6
‘(3) After consulting with a port authority, the Minister may direct the authority to perform a function or exercise a power under this section only for a specified area of its port or specified strategic port land or port facilities.	7 8 9 10
‘(4) A regulation under this section may create offences and prescribe penalties for the offences of not more than 100 penalty units.	11 12
‘(5) In this section—	13
“port facilities” of a port authority means port facilities owned or controlled by it.	14 15
‘Power to impose charges	16
‘61M.(1) A port authority may impose charges for the use of its port or for the State.	17 18
‘(2) Charges may, for example, be imposed by reference to—	19
(a) ships or aircraft using its port; and	20
(b) goods or passengers loaded, unloaded or transhipped to or from ships or aircraft using port facilities in its port, whether or not the facilities are owned or controlled by it.	21 22 23
‘(3) This section does not limit the powers a port authority has apart from this section.	24 25
‘Copies of additional functions or powers to be available	26
‘61N. If functions or powers are conferred on a port authority by a regulation under section 61I (Functions of port authorities) or section 61L (Additional powers), it must ensure that copies of a document specifying	27 28 29

Transport Infrastructure Amendment

details of the functions or powers, and the area where the functions or powers may be exercised or performed, are available for inspection and purchase (at reasonable cost) during business hours at its offices in the locality to which the functions or powers relate. 1
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‘Liability for charges’ 5

‘61O. A regulation may prescribe the persons who are liable for charges of a port authority. 6
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‘Liability for damage’ 8

‘61P. A regulation may prescribe the persons who are liable for damage to the works or infrastructure of a port authority. 9
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‘PART 4—LAND MANAGEMENT’ 11

‘Division 1—Strategic port land’ 12

‘Land use plans’ 13

‘61Q.(1) Each port authority must, from time to time, prepare a land use plan for approval under section 61S (Approval of land use plans). 14
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‘(2) After discussing the matter with a port authority, the Minister may direct it to prepare a land use plan or an amendment of a land use plan for approval under section 61S. 16
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‘(3) A port authority’s land use plan must specify details of— 19

(a) the authority’s strategic port land; and 20

(b) land the authority wishes to become strategic port land; and 21

(c) the current and proposed uses of the land. 22

‘Consultation on land use plans

‘61R.(1) If a port authority considers that land to which it holds title or that it holds directly from the State is or may be needed—

- (a) for the operation of its port; or
- (b) for use by industries requiring port facilities or that would enhance the usage of the port; or
- (c) for integration between sea or air transport and another transport mode; or
- (d) for a buffer between land required for a purpose mentioned in paragraph (a), (b) or (c) and other land;

the authority may include details of the land, and the current and proposed uses of the land, in a proposed land use plan or an amendment of a land use plan.

‘(2) The port authority must—

- (a) take reasonable steps to engage in public consultation about the proposed land use plan or amendment; and
- (b) consult with each local government in whose area land included in the plan or amendment is situated.

‘(3) However, consultation is not required—

- (a) for an amendment to remove land from the land use plan; or
- (b) for land that already is strategic port land whose use is not to change.

‘(4) After discussing the matter with the port authority, the Minister may return the proposed land use plan or amendment for amendment in the way directed by the Minister.

‘(5) A copy of the direction must be published in the Gazette within 21 days after it is given.

‘Approval of land use plans

‘61S.(1) The Minister may approve a proposed land use plan, or an amendment of a land use plan, if satisfied that—

Transport Infrastructure Amendment

(a) the land included in the plan or amendment is or may be needed for a use mentioned in section 61R(1) (Consultation on land use plans); and	1 2 3
(b) the port authority has taken appropriate account of issues raised by the public consultation; and	4 5
(c) no local government in whose area the land is situated has a substantial objection to the proposed plan or amendment.	6 7
‘(2) If the Minister is satisfied that any of the local governments has a substantial objection, the Governor in Council may approve the proposed land use plan or amendment if satisfied that, on balance, the approval should be given.	8 9 10 11
‘(3) Approval of a land use plan, or an amendment of a land use plan, must be notified in the Gazette within 21 days after it is given.	12 13
‘(4) The approval takes effect when it is notified in the Gazette.	14
‘(5) Land included in a port authority’s current approved land use plan is its strategic port land.	15 16
‘Strategic port land not subject to zoning requirements	17
‘61T. Strategic port land is not subject to the <i>Local Government (Planning and Environment) Act 1990</i> .	18 19
‘Use of strategic port land to be consistent with approved land use plan	20 21
‘61U.(1) A port authority must not use its strategic port land in a way that is inconsistent with its current land use plan.	22 23
‘(2) However, the Minister may approve the use by the port authority of part of its strategic port land for a specified time in a way that is inconsistent with its current land use plan if—	24 25 26
(a) the Minister is satisfied—	27
(i) the authority has taken reasonable steps to engage in public consultation about the proposed use; and	28 29
(ii) the authority has taken appropriate account of issues raised	30

Transport Infrastructure Amendment

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Division 2—General

Restrictions on dealing in property

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Transport Infrastructure Amendment

- (b) enter into a lease, licence or another form of tenure of its strategic port land, or its port facilities, for longer than 25 years (including any renewal option). 1
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- ‘(2) An approval may be subject to conditions. 4
- ‘(3) A purported dealing in land or port facilities contrary to this section has no effect. 5
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‘PART 5—GENERAL 7

‘Protection from liability 8

‘61W.(1) In this section— 9

“official” means a director of the Board of a port authority, an employee of a port authority or a person acting for a port authority. 10
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‘(2) A regulation may provide that an official is not civilly liable for an act or omission done honestly and without negligence for a port authority. 12
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‘(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the port authority. 14
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‘(4) This section applies despite anything in the *Government Owned Corporations Act 1993*. 16
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‘Carrying on port activities outside port limits 18

‘61X.(1) The Governor in Council may decide that port activities of a substantial nature may be carried on at a place that is not a port managed by a port authority, the State or a local government. 19
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‘(2) In this section— 22

“port” does not include an airport. 23

‘Offences 24

‘61Y.(1) A person must not intentionally or recklessly— 25

Transport Infrastructure Amendment

(a) damage a port authority’s works or infrastructure; or	1
(b) interfere with or disrupt a port’s operations; or	2
(c) dump refuse or goods at a port or into the waters of a port.	3
Maximum penalty—200 penalty units.	4
‘(2) A person must not intentionally or recklessly evade the payment of a port authority’s charges.	5
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Maximum penalty—200 penalty units.	7
‘(3) A person must not carry on port activities of a substantial nature at a place unless the place is in a port or a place where a decision under section 61X (Carrying on port activities outside port limits) applies.	8
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	10
Maximum penalty—200 penalty units.	11
‘(4) In subsection (3)—	12
“port” does not include an airport.	13
‘Payment of charges and interest on unpaid charges	14
‘61Z.(1) Charges of a port authority are payable within the time decided by the authority.	15
	16
‘(2) If charges of a port authority remain unpaid after the day when they are required to be paid, the authority may charge interest on the amount unpaid at the rate decided by the authority.	17
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‘(3) A regulation may provide for exemptions from charges of a port authority, but this section does not affect the power of a port authority to exempt or partially exempt a person from charges of the authority.	20
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‘Transitional provisions applying in relation to port authorities that are candidate GOCs	23
	24
‘61ZA.(1) This section applies in relation to a port authority that is a candidate GOC.	25
	26
‘(2) A regulation may prescribe matters about the administration and operation of the port authority, including, for example, matters about—	27
	28
(a) the port authority’s Board, chief executive officer and senior	29

Transport Infrastructure Amendment

management; and	1
(b) the port authority’s powers; and	2
(c) the port authority’s employees; and	3
(d) the port authority’s superannuation schemes; and	4
(e) dealings with the port authority.	5
‘(3) A regulation may prescribe transitional provisions about the port authority and an entity to which its assets and liabilities are to be transferred by a regulation under the <i>Government Owned Corporations Act 1993</i> .	6 7 8
‘(4) The port authority is a statutory body for the purposes of the <i>Statutory Bodies Financial Arrangements Act 1982</i> .	9 10
‘(5) This section ceases to apply to the port authority when its assets and liabilities are transferred to an entity by regulation under the <i>Government Owned Corporations Act 1993</i> or 18 months after it first applied to the authority.	11 12 13 14
‘Application of rating Acts	15
‘61ZB.(1) Strategic port land is rateable under the <i>Local Government Act 1993</i> or <i>City of Brisbane Act 1924</i> only if the land is occupied by a person other than a port authority, the State or another government entity (within the meaning of the <i>Government Owned Corporations Act 1993</i>).	16 17 18 19
‘(2) All other land occupied by a port authority is rateable under the <i>Local Government Act 1993</i> and <i>City of Brisbane Act 1924</i> .	20 21
‘Notices at entrances	22
‘61ZC.(1) If—	23
(a) a port authority erects or displays a notice at each entrance commonly used by persons to gain access to its port; and	24 25
(b) the notice contains information about the port; and	26
(c) in a case where use of its port or facilities gives rise to a liability for charges—the notice states this and indicates generally the nature of the charges; and	27 28 29

Transport Infrastructure Amendment

- (d) in a case where a contravention of a requirement of the notice is an offence—the notice states this and indicates generally the penalties that apply; and 1
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3
- (e) a person gains access to the port by using another entrance; 4
the person is taken to be aware of the information. 5
- ‘(2) If— 6
- (a) a port authority erects or displays a notice at each entrance commonly used by persons to gain access to its strategic port land; and 7
8
9
- (b) the notice contains information about the strategic port land; and 10
- (c) in a case where use of its strategic port land or facilities gives rise to a liability for charges—the notice states this and indicates generally the nature of the charges; and 11
12
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- (d) in a case where a contravention of a requirement of the notice is an offence—the notice states this and indicates generally the penalties that apply; and 14
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- (e) a person gains access to the strategic port land by using another entrance; 17
18
the person is taken to be aware of the information.’ 19

Insertion of new ss 65A and 65B 20

6. After section 65— 21

insert— 22

‘Proceedings for offences 23

‘65A.(1) An offence against this Act is a summary offence. 24

‘(2) A proceeding for an offence must start— 25

(a) within 1 year after the commission of the offence; or 26

(b) within 6 months after the offence comes to the complainant’s knowledge, but within 2 years after the commission of the offence. 27
28
29

‘Attempts to commit offences	1
‘65B.(1) A person must not attempt to commit an offence against this Act.	2 3
Maximum penalty—half the maximum penalty for committing the offence.	4
‘(2) Section 4 (Attempts to commit offences) of the Criminal Code applies to subsection (1).’.	5 6
 Amendment of Ch 7, heading	 7
7. Chapter 7, heading, ‘AND AMENDMENTS OF OTHER ACTS’—	8
<i>omit, insert—</i>	9
‘, AMENDMENTS AND REPEALS’.	10
 Amendment of Ch 7, Pt 1, heading	 11
8. Chapter 7, Part 1, heading, after ‘PROVISIONS’—	12
<i>insert—</i>	13
‘ABOUT ROADS’.	14
 Amendment of s 70 (Definitions)	 15
9.(1) Section 70, heading—	16
<i>omit, insert—</i>	17
‘Definition’.	18
(2) Section 70, ‘Chapter’—	19
<i>omit, insert—</i>	20
‘Part’.	21
 Insertion of Ch 7, new Pts 2 and 3	 22
10. Chapter 7—	23
<i>insert—</i>	24

‘PART 2—SAVINGS AND TRANSITIONAL PROVISIONS ABOUT PORTS

‘Interpretation

‘90.(1) In this Part—

“GOC port authority” means a port authority that is a GOC;

“predecessor” of a GOC port authority means the entity whose assets and liabilities were transferred to the authority by a regulation under the *Government Owned Corporations Act 1993*.

‘(2) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

‘Continuation of harbours under Harbours Act or port under Port of Brisbane Authority Act etc.

‘91.(1) Each harbour whose limits were defined under the *Harbours Act 1955*, and the port whose limits were defined under the *Port of Brisbane Authority Act 1976*, are taken to be ports under this Act with the same limits.

‘(2) On the commencement, the areas mentioned in section 15(1) of the *Gold Coast Waterways Authority Act Repeal Act 1990* are to be managed for the State by the Minister.

‘(3) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

‘Ports of port authorities

‘92.(1) A GOC port authority is responsible for the management of each port that was, immediately before the commencement, being managed by its predecessor.

‘(2) A port authority that is not a GOC is responsible for the management of each port for which it was responsible immediately before the commencement.

‘(3) This section expires 1 month after it commences.

‘Airport funds	1
‘93.(1) This section applies to—	2
(a) the funds created by section 14 of the <i>Cairns Airport Act 1981</i> ,	3
and any funds created under section 17 of that Act; and	4
(b) the funds created by section 12 of the <i>Mackay Airport Act 1989</i> ,	5
and any funds created under section 15 of that Act.	6
‘(2) Amounts standing, at the commencement, to the credit of a fund	7
kept by a port authority come under the direct control of the authority.	8
‘(3) This section expires on the commencement.	9
 ‘Funds under Harbours Act or Port of Brisbane Authority Act	 10
‘94.(1) Amounts standing, at the commencement, to the credit of a fund	11
kept by a port authority under Part 6 of the <i>Harbours Act 1955</i> or Part 3,	12
Division 1 of the <i>Port of Brisbane Authority Act 1976</i> come under the	13
direct control of the authority.	14
‘(2) Until a regulation provides otherwise—	15
(a) an amount standing, at the commencement, to the credit of the	16
Harbours Corporation Fund for the boat harbours of Bowen,	17
Mooloolaba, Rosslyn Bay, Snapper Creek and Urangan is to	18
remain in the fund and is to be managed for the boat harbours by	19
the Minister; and	20
(b) income and expenses of the boat harbours must be paid into or	21
out of the fund.	22
‘(3) Other amounts standing, at the commencement, to the credit of the	23
Harbours Corporation Fund must be paid to the Consolidated Fund.	24
‘(4) Subsections (1) and (3) and this subsection expire 1 month after they	25
commence.	26
‘(5) Subsection (2) and this subsection expire 2 years after they	27
commence or, if an earlier date is prescribed by regulation, on that date.	28

‘Harbour dues

‘95.(1) Any harbour dues chargeable by or payable to a port authority or a predecessor of a GOC port authority under the *Harbours Act 1955* or *Port of Brisbane Authority Act 1976* become charges of the port authority or GOC port authority on the commencement and, unless the port authority or GOC port authority resolves otherwise, are chargeable or payable at the same rates and in the same way as they were immediately before the commencement.

‘(2) This section expires 1 year after it commences.

‘Management of certain boat harbours

‘96.(1) Until a regulation provides otherwise, the boat harbours of Bowen, Mooloolaba, Rosslyn Bay, Snapper Creek and Urangan are to be managed for the State by the Minister.

‘(2) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.

‘Harbour and industrial lands

‘97.(1) Land held by a port authority that, immediately before the commencement, was harbour or industrial lands under the *Harbours Act 1955* continues to be harbour lands or industrial lands until the authority’s first land use plan is approved.

‘(2) If a regulation would apply to a port authority’s strategic port land, the regulation applies also to the authority’s land to which subsection (1) applies.

‘(3) Land that continues to be harbour lands under this section is rateable under the *Local Government Act 1993* or *City of Brisbane Act 1924* only if the land is occupied by a person other than a port authority, the State or another government entity (within the meaning of the *Government Owned Corporations Act 1993*).

‘(4) Land that continues to be industrial lands under this section is rateable under the *Local Government Act 1993* and *City of Brisbane Act 1924*.

‘(5) This section expires 2 years after it commences.

‘Submission of land use plans

‘98.(1) Each port authority must submit a proposed land use plan for approval under section 61S (Approval of land use plans) within 1 year after the commencement or any further time (not longer than 6 months) allowed by the Minister.

‘(2) If a port authority does not submit a proposed land use plan as required by subsection (1), section 97 (Harbour and industrial lands) ceases to apply to the authority’s land.

‘(3) This section expires 2 years after it commences.

‘Harbours Corporation of Queensland

‘99.(1) All assets and liabilities of the Harbours Corporation of Queensland remaining after the commencement of the *Harbours Amendment Act (No. 2) 1993* and existing at the commencement become, on the commencement, assets and liabilities of the State.

‘(2) The assets and liabilities are to be managed by the Minister or as otherwise decided by the Governor in Council.

‘(3) For the purpose of managing the assets and liabilities, the Governor in Council may decide that powers mentioned in section 64 or 196 of the *Harbours Act 1955* as in force immediately before the commencement may be exercised for the State by a person specified by the Governor in Council.

‘(4) The following by-laws under the *Harbours Act 1955*, as well as any definitions in the Act relevant to the by-laws, continue to have effect—

- *Bowen Harbour Board By-law 1977*, by-laws 1, 2, 9 and 10
- *Gold Coast Waterways Authority By-law 1980*, Chapters 1 to 3, 7 and 10 to 18
- *Houseboats By-law 1978*
- *Mooloolaba Boat Harbour By-law 1976*
- *Roslyn Bay Boat Harbour By-law 1980*
- *Snapper Creek and Urangan Boat Harbours By-law 1976*
- *Vessel, Wharf or Cargo Nuisances By-law 1988*.

‘(5) For the purpose of the continuing effect of a by-law mentioned in

Transport Infrastructure Amendment

subsection (4), a reference in the Act or by-law to an authorised person or officer is a reference to—

(a) a person who, immediately before the commencement, was an authorised person or officer under the by-law; or

(b) a person authorised by the Minister.

‘(6) Subsections (4) and (5) have effect despite the repeal of the *Harbours Act 1955*.’

‘(7) A legal proceeding by or against the Harbours Corporation of Queensland about assets or liabilities mentioned in this section that is unfinished at the commencement may be continued and finished by or against the State.’

‘(8) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.’

‘Queensland Sugar Corporation funds’

‘100.(1) Amounts standing, at the commencement, to the credit of a fund kept by the Queensland Sugar Corporation under section 180 of the *Harbours Act 1955* must be paid to the Queensland Sugar Corporation.’

‘(2) This section expires 1 month after it commences.’

‘Continuation of Inscribed Stock Regulations’

‘101.(1) The following regulations under the *Port of Brisbane Authority Act 1976* or *Harbours Act 1955*, as well as any definitions in the Acts relevant to the regulations, continue to have effect for inscribed stock or debentures issued under the regulations before the commencement—’

- *Port of Brisbane Authority Inscribed Stock and Debt Redemption Fund Regulation 1981*

- *Harbour Board Inscribed Stock Regulation 1987*.

‘(2) Subsection (1) has effect despite the repeal of the Acts mentioned in the subsection.’

‘(3) This section expires on a date to be fixed by regulation.’

‘Continuation of certain by-laws

‘102.(1) The *Marine Land Dredging By-law 1987*, as well as any definitions in the *Harbours Act 1955* relevant to the by-law, continue to have effect.

‘(2) The by-law has effect as if—

- (a) a reference to the Harbours Corporation, the Director, or the Department of Harbours and Marine, were a reference to the chief executive of the department; and
- (b) the definition of “marine land” in by-law 4 were amended by omitting ‘for which no Harbour Board is constituted’.

‘(3) A permit issued under the by-law about the removal of extractive material (within the meaning of Chapter 5A—Port infrastructure) that was in force immediately before the commencement continues to have effect as if it had been issued under the by-law as continued in effect by this section.

‘(4) The terms that applied to the permit immediately before the commencement continue to apply.

‘(5) The Minister may delegate to an officer of the public service or a port authority a power that the Minister has under subsection (1).

‘(6) The following by-laws under the *Harbours Act 1955* or *Port of Brisbane Authority Act 1976*, as well as any definitions in the Acts relevant to the by-laws, continue to have effect—

- a by-law about the habitation of houseboats or other vessels
- a by-law about a vessel, wharf or cargo nuisances.

‘(7) By-laws under the *Cairns Airport Act 1981*, *Harbours Act 1955* or *Mackay Airport Act 1989* for the Cairns Port Authority, Townsville Port Authority or Mackay Port Authority about parking and the regulation of vehicular traffic continue to have effect.

‘(8) For the purpose of the continuing effect of a by-law mentioned in this section, a reference in the by-law to an authorised person or officer is a reference to—

- (a) a person who, immediately before the commencement, was an authorised person or officer under the by-laws; or
- (b) a person authorised by the relevant port authority.

‘(9) This section has effect despite the repeal of the following Acts—	1
• <i>Cairns Airport Act 1981</i>	2
• <i>Harbours Act 1955</i>	3
• <i>Mackay Airport Act 1989</i>	4
• <i>Port of Brisbane Authority Act 1976.</i>	5
‘(10) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.	6 7
‘Continuation of certain provisions of Harbours Act about land	8
‘103.(1) The following provisions of the <i>Harbours Act 1955</i> continue to have effect—	9 10
• section 64A (Leases of vacant Crown land below high water mark)	11 12
• section 77 (Foreshores etc. the property of the Crown)	13
• section 78 (Saving of rights of the Crown to foreshore where land raised by the construction of harbour works)	14 15
• section 79 (With certain exceptions land lying below high water mark not to be transferred)	16 17
• section 80 (Special lease of lands lying below high water mark)	18
• section 94 (Issue of perpetual lease etc. of reclaimed land)	19
• section 94A (Harbour Board may obtain fee simple of certain reclaimed land)	20 21
• section 95(1) (Land reclaimed to be under control of local authority)	22 23
• section 97 (Existing rights protected)	24
• section 97A (Inundated land)	25
• any definitions relevant to the provisions.	26
‘(2) The provisions mentioned in subsection (1) continue to have effect, but the lease entered into between the State and Queensland Alumina Limited on 30 October 1970 under section 64A of the <i>Harbours Act 1955</i>	27 28 29

Transport Infrastructure Amendment

has effect, subject to any agreement between the parties to the lease, as if—	1
(a) the parties to the lease were the Gladstone Port Authority and Queensland Alumina Limited; and	2 3
(b) references in the lease to the Minister were references to the Gladstone Port Authority.	4 5
‘(3) This section has effect despite the repeal of the <i>Harbours Act 1955</i> .	6
‘(4) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.	7 8
‘ Continuation of certain provisions of Harbours Act about jetties and ramps etc.	9 10
‘ 104.(1) The following provisions of the <i>Harbours Act 1955</i> and regulations under that Act continue to have effect—	11 12
• section 81 (Power to lease lands to Harbour Boards etc.)	13
• section 88 (Provision for preventing deviation of certain works without consent of Governor in Council)	14 15
• section 140 (Management of Government wharf may be vested in Harbour Board etc.)	16 17
• section 142(3) (Lands vested in Board)	18
• <i>Barrier Reef Island Jetty Regulation 1971</i>	19
• <i>Boat Ramp Regulation 1972</i>	20
• <i>Fishermen’s Jetty Rockhampton Regulation 1972</i>	21
• <i>Heron Island Boat Harbour Regulation 1970</i>	22
• any definitions in the Act relevant to the provisions or regulations.	23
‘(2) Section 64 (other than 64(8)) (Power of Harbour Board to lease lands and grant licences and permits to occupy lands) of the <i>Harbours Act 1955</i> , as well as any definitions in that Act relevant to the section, continue to have effect for land that, immediately before the commencement, was vested in the control of a harbour board under section 81(4) of the <i>Harbours Act 1955</i> or that, after the commencement, become vested in the control of a port authority under that subsection as continued in effect and become strategic port land.	24 25 26 27 28 29 30 31

Transport Infrastructure Amendment

‘(3) This section has effect despite the repeal of the <i>Harbours Act 1955</i> .	1
‘(4) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.	2 3
‘(5) However, a regulation made within 2 years after the section commences may extend the operation of the section (other than subsection (1)) for a specified period (not longer than 5 years after the commencement).	4 5 6 7
‘(6) If the operation of this section (other than subsection (1)) is extended for a period under subsection (5), it expires at the end of the period.	8 9
‘Continuation of certain provisions of Harbours Act requiring approval for certain matters	10 11
‘105.(1) The following provisions of the <i>Harbours Act 1955</i> and regulations under that Act continue to have effect—	12 13
<ul style="list-style-type: none"> • section 59(3) to (6) (Power of Harbour Board to construct harbour works etc.) • section 67 (other than subsection (2)) (Removal of certain materials from Queensland waters) • section 86 (Works on tidal lands or waters etc. not to be constructed without sanction of Governor in Council) • section 89 (Powers of Minister in respect of works) • section 90 (Minister may employ engineers etc. to abate works) • section 91 (Reclamations etc. to be authorised) • section 92 (Application for authority to reclaim) • section 93 (Regulations in relation to reclamations) • <i>Construction of Harbour Works (Fees) Regulation 1992</i> • <i>Harbours (Reclamation of Land) Regulation 1979</i> • any definitions in the Act relevant to the provisions or regulations. 	14 15 16 17 18 19 20 21 22 23 24 25 26 27
‘(2) The provisions and regulations mentioned in subsection (1) continue to have effect as if—	28 29
<ul style="list-style-type: none"> (a) references to the Governor in Council were references to the 	30

Transport Infrastructure Amendment

Minister; and	1
(b) references to an order in council were references to a decision of the Minister.	2 3
‘(3) The Minister may delegate to an officer of the public service or a port authority a power under section 67 of the <i>Harbours Act 1955</i> that the Minister has under subsection (1).	4 5 6
‘(4) The Minister may delegate to an officer of the public service, a port authority or a local government a power under section 86 of the <i>Harbours Act 1955</i> that the Minister has under subsection (1).	7 8 9
‘(5) Section 59(3) to (6) of the <i>Harbours Act 1955</i> has effect as if references in the provisions to powers under subsection (1) were references to powers of the relevant port authority.	10 11 12
‘(6) Section 67 of the <i>Harbours Act 1955</i> has effect as if—	13
(a) references to a harbour board or the Harbours Corporation were a reference to the chief executive of the department; and	14 15
(b) subsection (2A) were amended by omitting ‘subsection (2)’ and substituting ‘the <i>Marine Land Dredging By-law 1987</i> ’.	16 17
‘(7) This section has effect despite the repeal of the <i>Harbours Act 1955</i> .	18
‘(8) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.	19 20
‘Continuation of certain provisions of Harbours Act about Queensland Sugar Corporation	21 22
‘106.(1) The following provisions of the <i>Harbours Act 1955</i> continue to have effect—	23 24
• section 177(2) (Power of the Queensland Sugar Corporation to appoint officers etc.)	25 26
• section 178 (Power of delegation by the Queensland Sugar Corporation)	27 28
• any definitions relevant to the provisions.	29
‘(2) Section 178 has effect as if ‘, with the prior approval of the Minister’ were omitted from subsection (1).	30 31

‘(3) This section has effect despite the repeal of the <i>Harbours Act 1955</i> .	1
‘(4) This section expires 2 years after it commences or, if an earlier date is prescribed by regulation, on that date.	2 3
‘Continuation of s 62A of Harbours Act	4
‘107.(1) Section 62A of the <i>Harbours Act 1955</i> , as well as any definitions in that Act relevant to the section, continue to apply to land of a port authority to which section 97 (Harbour and industrial lands) applies until the first land use plan of the authority is approved.	5 6 7 8
‘(2) This section has effect despite the repeal of the <i>Harbours Act 1955</i> .	9
‘(3) This section expires 2 years after it commences.	10
‘Continuation of Pt 5, Div 2 of Port of Brisbane Authority Act	11
‘108.(1) Part 5, Division 2 of the <i>Port of Brisbane Authority Act 1976</i> , as well as any definitions in the Act relevant to the Division, continue to apply to leases for which compensation could be claimed under the Division.	12 13 14 15
‘(2) This section has effect despite the repeal of the <i>Port of Brisbane Authority Act 1976</i> .	16 17
‘(3) This section expires on a date to be fixed by regulation.	18
‘Leases and licences under s 65 of Harbours Act	19
‘109.(1) If—	20
(a) immediately before the commencement, a lease or licence under section 65 of the <i>Harbours Act 1955</i> was in force; and	21 22
(b) the lease or licence required the approval of the Minister for—	23
(i) a change of use for a lease or licence for a term of not more than 25 years (including any renewal option); or	24 25
(ii) an assignment or a subletting or sublicensing;	26
the approval of the Minister is no longer required for the purpose.	27
‘(2) This section expires on the day on which it commences.	28

‘Lease mentioned in Harbours Acts Amendment Act 1968

‘110.(1) The lease mentioned in the *Harbours Acts Amendment Act 1968* between the State and Queensland Alumina Limited has effect, subject to any agreement between the parties to the lease, as if—

- (a) the parties to the lease were the Gladstone Port Authority and Queensland Alumina Limited; and
- (b) references in the lease to the Minister were references to the Gladstone Port Authority.

‘(2) This section expires on the day on which it commences.

‘Delegations

‘111.(1) If—

- (a) a person could exercise a power for the predecessor of a GOC port authority immediately before the commencement; and
- (b) on the commencement, the authority has the same or a similar power;

the person can continue to exercise the power for the authority as if it had been delegated to the person by the authority.

‘(2) If—

- (a) a person could exercise a power for a port authority that is not a GOC immediately before the commencement; and
- (b) on the commencement the authority has the same or a similar power;

the person can continue to exercise the power for the authority as if it had been delegated to the person by the authority.

‘(3) This section expires 3 months after it commences.

‘Special transitional provisions for former Ports Corporation of Queensland employees

‘112.(1) This section applies to a person who, immediately before the commencement, was a transferred employee within the meaning of Part 11

Transport Infrastructure Amendment

(Transitional Provisions About the Establishment of the Ports Corporation) of the <i>Harbours Act 1955</i> .	1 2
‘(2) The person may elect to become an officer of the public service within 1 year after the commencement.	3 4
‘(3) If the person becomes an officer of the public service under subsection (2)—	5 6
(a) the person’s initial terms of employment must not be less favourable than the terms of employment that applied to the person on 31 December 1993; and	7 8 9
(b) for superannuation and leave entitlements, the person is treated as—	10 11
(i) not having left the public service when the person became an employee of the Ports Corporation; and	12 13
(ii) having afterwards continued to be an officer of the public service.	14 15
‘(4) This section expires 1 year after it commences.	16
 ‘Application of s 20A, Acts Interpretation Act to this Part	 17
‘113.(1) This Part is a law to which section 20A of the <i>Acts Interpretation Act 1954</i> applies.	18 19
‘(2) This section expires 2 years after it commences.	20
 ‘PART 3—GENERAL SAVINGS AND TRANSITIONAL PROVISIONS	 21 22
 <i>‘Division 1—Transition of references about roads</i>	 23
 ‘Application of Division	 24
‘114. This Division applies to references in Acts in existence at its commencement.	25 26

Transport Infrastructure Amendment

‘Transport Infrastructure (Roads) Act 1991 references	1
‘115. A reference to the <i>Transport Infrastructure (Roads) Act 1991</i> is taken to be a reference to this Act.	2 3
‘Main Roads Act 1920 references	4
‘116. A reference to the <i>Main Roads Act 1920</i> is taken to be a reference to the <i>Transport Infrastructure (Roads) Act 1991</i> , this Act or both, as the case requires.	5 6 7
‘Commissioner of Main Roads references	8
‘117. A reference to the Commissioner of Main Roads (either as a natural person or corporation sole) is taken to be a reference to the chief executive.	9 10 11
‘Declared road references	12
‘118.(1) A reference to a declared road under the <i>Main Roads Act 1920</i> is taken to be a reference to a State-controlled road under this Act.	13 14
‘(2) A reference to a declared road under the <i>Transport Infrastructure (Roads) Act 1991</i> is taken to be a reference to a State-controlled road under this Act.	15 16 17
‘Motorway references	18
‘119. A reference to a motorway under the <i>Transport Infrastructure (Roads) Act 1991</i> is taken to be a reference to a motorway under this Act.	19 20
‘Main Roads Fund references	21
‘120. A reference to the Main Roads Fund is taken to be a reference to the funds of the department.	22 23
‘Division 2—Transition of references about ports	24

‘Application of Division	1
‘121. This Division applies to references in Acts in existence at its commencement.	2 3
 ‘Harbours Act 1955 and Port of Brisbane Authority Act 1976 references	 4 5
‘122. A reference to the <i>Harbours Act 1955</i> or <i>Port of Brisbane Authority Act 1976</i> is taken to be a reference to this Act.	6 7
 ‘Harbour board references	 8
‘123.(1) A reference to a harbour board is taken to be a reference to a port authority under this Act.	9 10
‘(2) A reference to the Port of Brisbane Authority is taken to be a reference to the Port of Brisbane Corporation.	11 12
 ‘Harbour references	 13
‘124. A reference to a harbour is taken to be a reference to a port under this Act.	14 15
 ‘Harbours Corporation and Harbours Trust references	 16
‘125.(1) A reference to the Harbours Corporation or Harbours Trust is taken to be a reference to—	17 18
(a) for a port to which subsection (2) applies or for the <i>Aurukun Associates Agreement Act 1975</i> —the Ports Corporation of Queensland; or	19 20 21
(b) in any other case—the State.	22
‘(2) This subsection applies to the following ports—	23
• Abbot Point	24
• Burketown	25
• Cape Flattery	26

Transport Infrastructure Amendment

<ul style="list-style-type: none"> • Cooktown • Hay Point • Innisfail • Karumba • Lucinda • Margaret Bay • Maryborough • Port Kennedy • Quintell Beach • St Lawrence • Weipa. 	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p>
<p>‘Gold Coast Waterways Authority references</p> <p> ‘126. A reference to the Gold Coast Waterways Authority is taken to be a reference to the State.</p>	<p>12</p> <p>13</p> <p>14</p>
<p><i>‘Division 3—Transition of references about railways</i></p>	
<p>‘Application of Division</p> <p> ‘127. This Division applies to references in Acts (other than the <i>Transport Infrastructure (Railways) Act 1991</i>) in existence at its commencement.</p>	<p>16</p> <p>17</p> <p>18</p> <p>19</p>
<p>‘Railways Act 1914 references</p> <p> ‘128. A reference to the <i>Railways Act 1914</i> is taken to be a reference to the <i>Transport Infrastructure (Railways) Act 1991</i>.</p>	<p>20</p> <p>21</p> <p>22</p>
<p>‘Commissioner for Railways references</p> <p> ‘129. A reference to the Commissioner for Railways is taken to be a</p>	<p>23</p> <p>24</p>

Transport Infrastructure Amendment

reference to—	1
(a) for the Commissioner as a corporation sole—Queensland Railways; or	2 3
(b) for the Commissioner as an individual—the chief executive of Queensland Railways.	4 5
‘Railways Department references	6
‘130. A reference to the Railways Department is taken to be a reference to Queensland Railways.	7 8
<i>Division 4—General</i>	9
‘Application of s 32A, Acts Interpretation Act	10
‘131. To remove any doubt, the provisions of Divisions 1 to 3 are definitions for the purposes of section 32A of the <i>Acts Interpretation Act 1954</i> .’.	11 12 13
Renumbering of Ch 7, Pt 2	14
11. Chapter 7, Part 2—	15
<i>renumber</i> as Chapter 7, Part 4.	16
Renumbering of s 90	17
12. Section 90—	18
<i>renumber</i> as section 129.	19
Amendment of Sch 3	20
13.(1) Schedule 3, amendments of <i>Harbours Act 1955</i> —	21
<i>omit</i> .	22
(2) Schedule 3, amendments of <i>Transport Infrastructure (Roads) Act 1991</i> —	23 24

Transport Infrastructure Amendment

<i>insert—</i>	1
‘2A. Section 2.5—	2
<i>omit.’.</i>	3
Amendments of other Acts	4
14. The Acts mentioned in Schedule 1 are amended as specified in the Schedule.	5 6
Repeals	7
15. The Acts mentioned in Schedule 2 are repealed.	8 9

SCHEDULE 1	1
AMENDMENT OF ACTS	2
section 14	3
TRANSPORT INFRASTRUCTURE (RAILWAYS) ACT 1991	4 5
1. Section 91—	6
<i>omit.</i>	7
TRANSPORT INFRASTRUCTURE (ROADS) ACT 1991	8
1. Part 2, Division 3—	9
<i>omit.</i>	10
2. Schedule 3, clauses 4, 5 and 12—	11
<i>omit.</i>	12
TRANSPORT PLANNING AND COORDINATION ACT 1994	13 14
1. Section 12(2), after ‘means a GOC’—	15
<i>insert—</i>	16
‘or a candidate GOC’.	17
	18

SCHEDULE 2

1

ACTS REPEALED

2

section 15

3

Cairns Airport Act 1981 No. 55	4
Gold Coast Waterways Authority Act Repeal Act 1990 No. 32	5
Harbour Boards Acts Amendment Act 1941 6 Geo 6 No. 9	6
Harbour Boards Acts Amendment Act 1951 15 Geo 6 No. 17	7
Harbours Act 1955 4 Eliz 2 No. 40	8
Harbours Act Amendment Act 1956 5 Eliz 2 No. 14	9
Harbours Act Amendment Act 1976 No. 42	10
Harbours Act Amendment Act 1978 No. 81	11
Harbours Act Amendment Act 1980 No. 30	12
Harbours Act and Other Acts Amendment Act 1982 No. 14	13
Harbours Act and Other Acts Amendment Act 1987 No. 63	14
Harbours Act and Other Acts Amendment Act 1989 No. 44	15
Harbours Acts Amendment Act 1959 8 Eliz 2 No. 11	16
Harbours Acts Amendment Act 1962 11 Eliz 2 No. 8	17
Harbours Acts Amendment Act 1963 No. 19	18
Harbours Acts Amendment Act 1964 No. 30	19
Harbours Acts Amendment Act 1966 No. 29	20
Harbours Acts Amendment Act 1968 No. 10	21
Harbours Amendment Act 1993 No. 4	22
Harbours Amendment Act 1993 No. 73	23
Mackay Airport Act 1989 No. 82	24

SCHEDULE 2 (continued)

Port of Brisbane Authority Act 1976 No. 51	1
Port of Brisbane Authority Act Amendment Act 1979 No. 56	2
Port of Brisbane Authority Act Amendment Act 1986 No. 39	3
Rockhampton Harbour Board and the Council of the City of Rockhampton Act 1960 9 Eliz 2 No. 10	4 5
State Development and Public Works Organization Act and Other Acts Amendment Act 1979 No. 26	6 7
	8