

# **Transport and Other Legislation Amendment Bill 2005**

## **Explanatory Notes for Amendments to be moved during consideration in detail by the Honourable *Paul Lucas* MP**

### **Short Title of the Bill**

Transport and Other Legislation Amendment Bill 2005

### **Objectives of the Amendments**

It is proposed to make amendments to the Bill to remove reference to a summary of a franchise agreement and to the Auditor-General signing-off on summary franchise agreements. The amendment will require the tabling of a full road franchise agreement for both the state and local governments.

It is also proposed to make amendments to the Bill that will make it explicit that drivers are not liable to pay administration charges or user administration charges only if tolling devices such as transponders are faulty through no fault of the driver and that the drivers are unaware of a fault.

### **Achievement of the Objectives**

#### Tabling of Franchise Agreements

The Transport and Other Legislation Amendment Bill 2005 provides for a range of changes but specifically states that a summary franchise agreement "must be certified by the auditor-general as being an accurate summary of the road franchise agreement or amendment".

The amendment to be made to the Bill in committee will remove all reference to a summary of a franchise agreement or to the Auditor-General signing-off on summary franchise agreements.

The Auditor-General's right to enquire and audit is not in any way altered but the amendment increases the disclosure required by the Minister over that in the original Bill.

The amendment will ensure that in the current requirement under section 86 of the *Transport Infrastructure Act 1994*, the requirement for a full road franchise agreement be tabled remains unchanged.

This amendment will result in clause 24 being omitted and clause 32, section 105Z of the Transport and Other Legislation Amendment Bill 2005 being changed to omit any reference to a summary of a franchise agreement. There has been no change to the policy intent of the Bill.

#### Liability for Faulty Tolling Devices

The proposed amendments to the Bill will make explicit that drivers are not liable to pay administration charges or user administration charges only if tolling devices such as transponders, other electronic devices or the E toll system are faulty through no fault of the driver and that the drivers are unaware of a fault.

The Bill as introduced may be ambiguous as to whether a driver is liable to pay administration charges or user administration charges should the driver deliberately render a tolling device inoperable or know that a tolling device is faulty.

This amendment will impact on Clause 27, Clause 29; Clause 32 s105ZC(3) and Clause 32 s105ZG(2) of the Transport and Other Legislation Amendment Bill 2005.

#### **Alternative Ways of Achieving Policy Objectives**

There are no alternative ways of achieving the policy objectives.

#### **Estimated Cost for Government Implementation**

Nil.

#### **Consistency with Fundamental Legislative Principles**

This amendment does not impact on Fundamental Legislative Principles.

## **Notes on Provisions**

Clause 24 will be omitted. This will result in no change to section 86 of the *Transport Infrastructure Act 1994*. The amendment will ensure that there will continue to be a requirement for the tabling of franchise agreements in their entirety. This will ensure adequate transparency and accountability.

Clause 32, Section 105Z will be amended to ensure that the whole road franchise agreement entered into by local government will be tabled. This mirrors the current requirements under section 86 of the *Transport Infrastructure Act 1994* for state road franchise agreements.

Clause 27 Clause 29; Clause 32 s105ZC(3) and Clause 32 s105ZG(2) will be amended to make it explicit that drivers are not liable to pay administration charges or user administration charges only if tolling devices such as transponders, other electronic devices or the E toll system are faulty, through no fault of the driver and that drivers are unaware of a fault.