

Queensland



TRANSPORT PLANNING AND COORDINATION ACT 1994

**Reprinted as in force on 19 July 1994
(includes amendments up to Act No. 32 of 1994)**

Reprint No. 2

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 19 July 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

The reprint includes a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have also been made to use aspects of format and printing style consistent with current legislative drafting practice (s 35).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A Table of previous reprints is included in the Endnotes.

Also see Endnotes for—

- **details about when provisions commenced**
- **any provisions that have not commenced and are not incorporated in the reprint.**

Queensland



**TRANSPORT PLANNING AND
COORDINATION ACT 1994**

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TRANSPORT PLANNING AND COORDINATION ACT 1994

[as amended by all amendments that commenced on or before 19 July 19942]

An Act about the planning and coordination of transport, and other matters for which the Minister is responsible

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Transport Planning and Coordination Act 1994*³⁻⁵.

Commencement

2. This Act commences on a day to be fixed by proclamation.

Objectives

3. The objectives of this Act are, within the government's overall policy agenda, to improve—

- (a) the economic, trade and regional development performance of Queensland; and
- (b) the quality of life of Queenslanders;

by achieving overall transport effectiveness and efficiency through strategic planning and management of transport resources.

Definitions

4. In this Act—

“**chief executive**” means the chief executive of the department;

“**transport Act**” means an Act administered by the Minister, and includes this Act;

“**transport decision**” means a decision under a transport Act;

“**transport purpose**” includes any purpose for which the Minister is responsible.

PART 2—TRANSPORT COORDINATION PLAN**Development of Transport Coordination Plan**

5.(1) The chief executive must from time to time develop for the Minister’s approval a Transport Coordination Plan to provide a framework for strategic planning and management of transport resources in Queensland in accordance with the objectives of this Act.

(2) In developing a Transport Coordination Plan, the chief executive must take reasonable steps to engage in public consultation.

(3) A Transport Coordination Plan applies for the period specified in the plan, but the chief executive may, if it is appropriate in the circumstances, develop a new Transport Coordination Plan for the Minister’s approval even though the period has not ended.

(4) The Minister may, at any time, direct the chief executive to prepare a new Transport Coordination Plan for the Minister’s approval or to amend the current Transport Coordination Plan in the way the Minister directs.

(5) The Minister may approve a Transport Coordination Plan that is submitted for approval or require the chief executive to amend the plan in the way the Minister directs.

Contents of Transport Coordination Plan

6.(1) A Transport Coordination Plan must include—

- (a) a statement of the specific objectives sought to be achieved by the plan; and
- (b) criteria for deciding priorities for spending on transport; and
- (c) appropriate performance indicators for deciding whether, and to what extent, the objectives of the plan have been achieved.

(2) A Transport Coordination Plan must also provide—

- (a) an adequate framework for the coordinated planning for transport; and
- (b) a way of achieving effective and efficient use of land for transport purposes.

Transport Coordination Plan to be consistent with overall strategic planning for Government etc.

7. Each Transport Coordination Plan must—

- (a) be consistent with the Government's overall strategic planning for Queensland; and
- (b) take into account—
 - (i) national transport strategies; and
 - (ii) regional transport and other development strategies; and
 - (iii) local government interests; and
 - (iv) the government's land use planning; and
 - (v) the government's environmental policies.

Tabling of Transport Coordination Plan

8. The Minister must cause a copy of each Transport Coordination Plan, and of each amendment of a Transport Coordination Plan, approved by the Minister, to be tabled in the Legislative Assembly.

PART 3—FUNCTIONS, POWERS AND PROPERTY

Functions of chief executive not limited by implication

8A.(1) No transport Act limits, by implication, the chief executive's functions under another Act or law.

Examples—

This Act (and the chief executive's functions under it) do not limit, by implication, the following functions under other Acts or laws—

1. The chief executive's responsibilities as chief executive under the *Public Service Management and Employment Act 1988*, especially section 12.

2. The chief executive's functions as accountable officer under the *Financial Administration and Audit Act 1977*, especially section 36.

3. The chief executive's functions, at common law and under statute, as the person in control, under the Minister, of a department of government of the State.

4. The chief executive's functions under the *Transport Infrastructure Act 1994*, including, for example, the chief executive's road transport infrastructure functions under section 19 of that Act.

(2) This section is enacted to remove any doubt about the chief executive's functions.

(3) In this section—

“**function**” includes responsibility;

“**law**” includes any common law rule.

General powers of chief executive

9.(1) The chief executive has, under the Minister and as agent of the State, all the powers of the State that are necessary or desirable for performing the chief executive's functions.

(2) Anything done in the name of, or for, the State by the chief executive in performing the chief executive's functions is taken to have been done for, and binds, the State.

(3) Without limiting subsection (1), the chief executive may, for example, in performing the chief executive's functions—

(a) enter into arrangements, agreements, contracts and deeds; and

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- (b) acquire, hold, deal with and dispose of property; and
- (c) appoint agents and attorneys; and
- (d) charge, and fix terms, for goods, services, facilities and information supplied; and
- (e) seal any document; and
- (f) do other things necessary or convenient to be done for, or in connection with, the chief executive's functions.

(4) Without limiting subsection (1), the chief executive has the powers given to the chief executive under this or another Act or at common law.

(5) No transport Act limits, by implication, the powers that the chief executive has under another Act or law, and, in particular, no transport Act prevents, by implication—

- (a) the chief executive doing anything in trade or commerce; or
- (b) the chief executive doing anything outside Queensland, including outside Australia.

(6) However, the chief executive's powers are subject to any restriction expressly imposed on the chief executive under this or another Act.

(7) This section is enacted to remove any doubt about the chief executive's powers.

(8) In this section—

“function” includes responsibility;

“law” includes any common law rule;

“power” includes legal capacity;

“restriction” includes prohibition;

“trade or commerce” includes—

- (a) a business or professional activity; and
- (b) anything else done for gain or reward.

General powers regarding property

10.(1) The chief executive may, for the State, acquire, hold, dispose of or

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otherwise deal with property for the purposes of transport or for an incidental purpose.

(2) The power conferred by subsection (1) includes power to acquire land by resumption in accordance with this Part if the land is, in the chief executive's opinion, required for the purposes of transport or for an incidental purpose.

(3) In particular, the chief executive may, for the State, acquire property for any of the following purposes—

- (a) the facilitation of transport infrastructure;
- (b) the supply or improvement of facilities for users of transport infrastructure;
- (c) the amelioration of negative environmental effects associated with transport infrastructure;
- (d) the construction or relocation of ancillary works and encroachments and public utility plant within the meaning of the *Transport Infrastructure Act 1994*, Chapter 5.

(4) In acquiring land under this Part, the chief executive must have regard to any relevant provisions of—

- (a) the Transport Coordination Plan; and
- (b) transport infrastructure strategies in force under the *Transport Infrastructure Act 1994*.

(5) The chief executive is a constructing authority within the meaning of the *Acquisition of Land Act 1967*.

(6) The chief executive may, as a constructing authority under the *Acquisition of Land Act 1967*, obtain a lease of State land or some other interest in State land that is less than freehold.

(7) If an acquisition of land by the chief executive would sever land of the owner from other land of the owner, the chief executive may, with the Minister's approval, acquire by agreement or resumption the whole or a part of the severed area.

Taking of land by the chief executive for future transport purposes

11. An acquisition of land that will be required at some future time for a purpose for which land may be taken under this Act by the chief executive is an acquisition of land for the purposes of this Act even if the time when the land will be required is indefinite or presently cannot be worked out.

Power of chief executive to lease or dispose of land for GOCs

12.(1) Despite the *Acquisition of Land Act 1967*, the chief executive may, for the State, lease, sell or otherwise dispose of land to a transport GOC if the land—

- (a) has been acquired for transport purposes or for an incidental purpose; and
- (b) is required for the operations of the transport GOC.

(2) In subsection (1)—

“transport GOC” means a GOC or a candidate GOC within the meaning of the *Government Owned Corporations Act 1993* whose functions relate mainly to transport.

No compensation for works after notice of intention to resume or agreement to acquire

13. In deciding the amount of compensation payable to a person for land resumed under this Part, regard must not be had to the value of works carried out on the land at a time after a notice of intention to resume the land has been sent to a person entitled to compensation for the land or agreement to acquire the land has been reached.

PART 4—APPEALS**Regulation may provide for appeals**

15.(1) The Governor in Council may make a regulation under a transport Act to provide that—

- (a) a person whose interests are affected by a transport decision under the Act specified in the regulation may appeal against the decision; or
- (b) someone else specified in the regulation may appeal against the decision.

(2) The regulation must specify whether the appeal lies to a District Court or a Magistrates Court.

(3) The regulation may provide that a person who may appeal against or seek internal review of a decision is entitled to receive a statement of reasons for the decision.

Time for making appeals

16.(1) An appeal by a person against a transport decision must be made before the end of 28 days after a document setting out the decision was given to the person.

(2) However, a regulation may specify a different period for particular transport decisions.

(3) If a statement of reasons is required for a decision, a regulation may specify that the period for making an appeal begins when the applicant is given the statement of reasons.

(4) The court to which an appeal against a transport decision lies may extend the period for making an appeal.

Starting appeals

17.(1) An appeal must be started by—

- (a) filing a written notice of appeal with the court; and
- (b) serving a copy of the notice on the chief executive.

(2) An appeal to a Magistrates Court or District Court may be made to the Magistrates Court or District Court nearest the place where the applicant resides or carries on business.

Stay of operation of decisions

18.(1) A court to which an appeal against a transport decision lies may grant a stay of the operation of the decision to secure the effectiveness of the appeal.

(2) A stay—

- (a) may be granted on the conditions that the court considers appropriate; and
- (b) applies for the period that the court specifies, but not extending beyond the time when the court makes a decision on the appeal; and
- (c) may be revoked or amended by the court.

(3) Apart from a stay of the operation of a decision, appeal does not affect the operation or carrying out of the decision.

Powers of court on appeal

19.(1) In deciding an appeal, a court—

- (a) has the same powers as the decision maker; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice; and
- (d) may hear the appeal in court or in chambers.

(2) An appeal is by way of rehearing.

(3) The court may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision that the court considers appropriate; or
- (c) set aside the decision and return the issue to the decision maker with the directions that the court considers appropriate.

Effect of decision of court on appeal

20. If a court substitutes another decision, the substituted decision is, for

the relevant provision of the transport enactment, taken to be that of the decision maker.

Procedure of District Court

21.(1) The power to make rules of court under the *District Courts Act 1967* includes power to make rules of court for appeals to District Courts under this Part.

(2) The procedure for an appeal to a District Court under this Part is—

- (a) in accordance with rules made under the *District Courts Act 1967*; or
- (b) in the absence of relevant rules, as directed by a Judge of the Court.

(3) An appeal to the Court of Appeal from a decision of the District Court may be made only on a question of law.

Assessors

22. If the Judge hearing an appeal in a District Court is of the opinion that the appeal involves a question of special knowledge and skill, the Judge may appoint 1 or more assessors to help the Judge in deciding the appeal.

Procedure of Magistrates Court

23.(1) The power to make rules of court under the *Magistrates Courts Act 1921* includes power to make rules of court for appeals to Magistrates Courts under this Part.

(2) The procedure for appeal to a Magistrates Court under this Part is—

- (a) in accordance with the rules made under the *Magistrates Courts Act 1921*; or
- (b) in the absence of relevant rules, as directed by a Magistrate.

(3) An appeal to the District Court from a decision of the Magistrates Court may be made only on a question of law.

Internal review of decisions

24.(1) A regulation providing for an appeal against a transport decision may provide that an appeal lies only if the applicant has sought a review by the chief executive of the decision.

(2) An application for internal review of a decision must be made before the end of 28 days after—

- (a) a document setting out the decision was given to the person; or
- (b) if the regulation so specifies, the applicant is given the statement of reasons for the decision.

(3) A decision on an application for internal review must be made within 28 days after the request is made.

(4) However, if the decision is not made within the period of 28 days, the chief executive is taken to have made a decision at the end of the period confirming the original decision.

(5) In making an appeal to a court, the decision subject to appeal is the decision on review and not the original decision.

PART 5—GENERAL**Delegation by the Minister or the chief executive**

25.(1) The Minister or the chief executive may delegate to a person a power of the Minister or the chief executive under this Act or another Act.

(2) A power may be subdelegated if the delegation allows the subdelegation of the power.

Regulations

26. The Governor in Council may make regulations for the purposes of this Act.

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 19 July 1994. Future amendments of the Transport Planning and Coordination Act 1994 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Table of previous reprints

Reprint No.	Amendments included	Reprint date
1	none	27 April 1994

4 List of legislation

Transport Planning and Coordination Act 1994 No. 2

date of assent 7 March 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 15 April 1994 (1994 SL No. 129)

Transport Infrastructure Amendment Act 1994 No. 32 s 14 Sch 1

date of assent 30 June 1994

commenced 1 July 1994 (see s 2)

5 List of annotations

Key to abbreviations in list of annotations

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Long title amd 1994 No. 32 s 14 Sch 1

Definitions

s 4 “transport Act” ins 1994 No. 32 s 14 Sch 1
“transport decision” ins 1994 No. 32 s 14 Sch 1
“transport purpose” ins 1994 No. 32 s 14 Sch 1

PART 3—FUNCTIONS, POWERS AND PROPERTY

Pt hdg subs 1994 No. 32 s 14 Sch 1

Functions of chief executive not limited by implication

s 8A ins 1994 No. 32 s 14 Sch 1

General powers of chief executive

s 9 sub 1994 No. 32 s 14 Sch 1

Power of chief executive to lease or dispose of land for GOCs

s 12 amd 1994 No. 32 s 14 Sch 1

Definitions

s 14 om 1994 No. 32 s 14 Sch 1