



New South Wales

Transport Administration Amendment (Light Rail) Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Transport Administration Act 1988*:
 - to expand the functions of the Director-General of the Department of Transport with respect to the provision of appropriate passenger services in order to facilitate the development and operation of light rail services, and
 - to confer additional powers on the Director-General, including powers in relation to the acquisition and disposal of land, to enable the Director-General to exercise his or her light rail and other functions effectively, and
 - to make special provision for the development and operation of light rail systems and matters incidental to the construction and operation of such systems, and
 - (b) to make consequential amendments to the *Local Government Act 1993*, the *Motor Accidents Act 1988*, the *Rail Safety Act 1993*, the *Roads Act 1993* and the *Traffic Act 1909*.
-

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Transport Administration Act 1988* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments of Acts set out in Schedule 2.

Schedule 1 Amendment of Transport Administration Act 1988

Provisions relating to functions of Director-General and light rail

Schedule 1 [4] inserts provisions to confirm the functions of the Director-General of the Department of Transport in relation to light rail services.

Schedule 1 [11] inserts Division 2A into Part 9 of the Principal Act.

Subdivision 1 (proposed sections 104A–104K) of the Division deals with general matters relating to the functions of the Director-General.

The term *functions* is defined so as to cover all of the Director-General's transport functions. (See proposed section 104A.) Provision is made to enable the functions of the Director-General to be exercised through the proposed Transport Administration Corporation (or through joint ventures or other associations). The ability of the Director-General to exercise functions in his or her own capacity, and to enter contracts on behalf of the Crown, is preserved. (See proposed sections 104B and 104C.)

Provision is made for the establishment of the Transport Administration Corporation as a statutory body representing the Crown. The Corporation is taken to be part of the Department of Transport and is under the management and control of the Director-General. (See proposed section 104D.)

The current provision conferring power on the Director-General to enter into contracts (section 43 of the Principal Act) is repealed and re-enacted in substantially the same form in the new Subdivision. (See Schedule 1 [6] and proposed section 104E.)

Explanatory note

Provisions are inserted conferring powers on the Director-General in relation to the sale, lease or other disposal of land, the compulsory acquisition of land and the exercise of other functions concerning land. (See proposed sections 104F–104I.)

The Director-General is given specific annual reporting functions with respect to activities and objectives concerning passenger transport facilities (including light rail). (See proposed section 104J.)

A power is inserted to enable the making of regulations relating to passenger transport facilities (including light rail). (See proposed section 104K.)

Subdivision 2 (proposed sections 104L–104U) of Division 2A contains special provisions dealing with light rail. Definitions are provided for the purposes of the Subdivision. (See proposed section 104L.)

Light rail service is defined to ensure that it includes all forms of light rail vehicle passenger services. (See proposed section 104M.)

Light rail system is defined as a light rail service provided over a route declared by the regulations on the recommendation of both the Minister for Transport and the Minister for Roads, including vehicles and associated infrastructure. (See proposed section 104N.)

The Director-General is authorised to develop and operate light rail systems or to facilitate their development and operation by others. (See proposed section 104O.)

Provision is made for the application of Part 5 (instead of Part 4) of the *Environmental Planning and Assessment Act 1979* to the development of light rail systems. If an EIS is required, the approval of the Minister for Urban Affairs and Planning will be necessary. (See proposed section 104P.)

Local government building and subdivision approvals will not be required for light rail systems. (See proposed section 104Q.)

Provision is made concerning the creation of easements, rights of way and restrictions on the use of land for the purposes of the development and operation of light rail systems. Compensation will not be payable for the compulsory acquisition of interests in land that consist of easements for the support of catenaries for a light rail system (that is, the overhead conductor-wires) from buildings, structures or land or for interests under, on or over a public road. (See proposed section 104R.)

Land used for the purposes of construction and operation of a light rail system will be exempt from the payment of rates and land tax. However, this

Explanatory note

exemption does not extend to land used for administrative offices, workshops or similar facilities or other purposes prescribed by the regulations. (See proposed section 104S.)

Regulations may be made to exempt any matter concerning the development of a light rail system from the payment of stamp duty under the *Stamp Duties Act 1920*. (See proposed section 104T.)

The Director-General or persons authorised by the Director-General are authorised to alter the position of conduits used for the conveyance of substances, energy or signals in order to facilitate the development or operation of light rail systems. (See proposed section 104U.)

Consequential and other provisions

Schedule 1 [1]–[3] make consequential amendments relating to the functions of the Director-General.

Schedule 1 [5] makes an amendment by way of statute law revision.

Schedule 1 [7] and [8] provide for a representative of light rail operators on the Public Transport Authority.

Schedule 1 [9] and [10] make amendments concerning payment of penalties recovered for offences that are consequential on the re-location of provisions dealing with certain railway offences from the Principal Act to the *Rail Safety Act 1993* and other changes.

Schedule 1 [12] enables the making of regulations of a savings, transitional or other nature in consequence of the enactment of the proposed Act.

Schedule 1 [13] terminates an agreement between the Sydney City Council and certain government agencies relating to the use of roads by the Ultimo/Pymont light rail system that has been superseded by the new arrangements for light rail provided by the proposed Act. Provision is made to re-vest the public roads involved in the Sydney City Council.

Schedule 2 Amendment of other Acts

The *Local Government Act 1993* is amended to exempt the owner or operator of a light rail system from a provision dealing with the imposition of an annual charge in respect of a rail, pipe, wire, pole, cable, tunnel or structure laid, erected, suspended, constructed or placed on, under or over a public place in relation to the operation of that system. The regulations may exclude a matter from the exemption.

The definition of *motor vehicle* in the *Motor Accidents Act 1988* is amended to make it clear that the definition extends to light rail vehicles and, consequently, that the third party insurance scheme provided for by that Act extends to vehicles on light rail systems.

The *Rail Safety Act 1993* is amended:

- to provide that if the Director-General of the Department of Transport is the owner or operator of a railway, the functions of the Director-General under that Act in relation to the railway concerned are to be exercised by the Minister, and
- to make it a condition of the accreditation of the owner or operator of a railway that third-party policies required under the *Motor Accidents Act 1988* have been issued for vehicles on a light rail system, and
- to make provision for offences relating to the failure to pay fares on a railway and relating to the control of trains, their drivers and passengers on railways (the offences having been re-located from the *Transport Administration Act 1988* and extended to light rail).

The *Roads Act 1993* is amended:

- to make it clear that the right of passage along public roads by members of the public extends to the right of passage of members of the public in a light rail or other railway vehicle, and
- to require that a roads authority must not take action that prevents or obstructs the passage of a light rail vehicle along a declared light rail route without the prior consent of the Director-General of the Department of Transport, and
- to specify that, in the case of works or other action in connection with a light rail system that requires the consent of a roads authority, that consent is not required (if the roads authority is not the *RTA*) but that the work or other action must not be carried out or taken unless the consent of the RTA has been obtained, and
- to authorise the RTA (in place of the relevant roads authority, if it is not the RTA) to give directions, impose requirements or exercise other functions of a roads authority under the Act in connection with the development or operation of a light rail system, and
- to make consequential amendments.

Transport Administration Amendment (Light Rail) Bill 1996

Explanatory note

The *Traffic Act 1909* is amended to make it clear that light rail vehicles are included in the definitions of *motor vehicle* and *vehicle* in that Act with the effect that the offence provisions of and under that Act relating to the operation of motor vehicles and vehicles apply to light rail vehicles and their drivers. However, specific provision is made that light rail vehicles are not required to be registered under that Act nor are their drivers required to be licensed. (Accreditation requirements in relation to light rail vehicles and their drivers are contained in the *Rail Safety Act 1993*.) In addition, the *Traffic Act 1909* is amended to enable the Director-General of the Department of Transport and a light rail operator to remove dangers and obstructions on a public street used by a light rail system. The Director-General or a person authorised by the Director-General will also be authorised to tow-away unattended vehicles that are obstructing the passage of a light rail vehicle.

First print



New South Wales

Transport Administration Amendment (Light Rail) Bill 1996

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Transport Administration Act 1988 No 109	2
4 Amendment of other Acts	2

Schedules

1 Amendment of Transport Administration Act 1988	3
2 Amendment of other Acts	17



New South Wales

Transport Administration Amendment (Light Rail) Bill 1996

No. , 1996

A Bill for

An Act to amend the *Transport Administration Act 1988* and other Acts with respect to light rail services; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Transport Administration Amendment (Light Rail) Act 1996*.

2 Commencement

5

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Transport Administration Act 1988 No 109

The *Transport Administration Act 1988* is amended as set out in Schedule 1.

10

4 Amendment of other Acts

Each Act specified in Schedule 2 is amended as set out in that Schedule.

**Schedule 1 Amendment of Transport
Administration Act 1988**

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

5

light rail services—see section 104M.

light rail system—see section 104N.

Transport Administration Corporation means the
Transport Administration Corporation constituted under
this Act.

10

[2] Section 36 References to functions of Director-General

Insert “or 37A or under Division 2A of Part 9” after “section 37”.

**[3] Section 38 Functions of ensuring provision of appropriate
passenger services**

Omit “section 43” from section 38 (2).

15

Insert instead “section 104E”.

[4] Section 38 (2A)

Insert after section 38 (2):

(2A) This section extends to light rail services.

[5] Section 40 Delegation

20

Omit section 40 (3) (a).

Transport Administration Amendment (Light Rail) Bill 1996

Schedule 1 Amendment of Transport Administration Act 1988

[6] Section 43 Power of Director-General to contract

Omit the section.

[7] Section 44 Constitution of PTA

Omit "not more than 5 members" from section 44 (2) (b).
Insert instead "not more than 6 members".

5

[8] Section 44 (2) (b) (v)

Insert after section 44 (2) (b) (iv):

(v) a representative of light rail system
operators, and

[9] Section 70 Payment into State Rail Authority Fund

10

Omit "under section 97 or the regulations under section 99" from
section 70 (c).

Insert instead "under the regulations under section 99, or under
section 79A (or the regulations under section 79B) of the *Rail Safety
Act 1993* in connection with railway services operated by the State
Rail Authority (but only if proceedings or penalty notices for the
offences were instituted or issued by that Authority or an employee
of that Authority)".

15

[10] Section 74 Payment into State Transit Authority Fund

Omit "under the regulations under section 104" from section 74 (c).

20

Insert instead "under the regulations under section 104, or under the
regulations under section 63 of the *Passenger Transport Act 1990* in
connection with bus or ferry services operated by the State Transit
Authority (but only if proceedings or penalty notices for the offences
were instituted or issued by that Authority or an employee of that
Authority)".

25

[11] Part 9, Division 2A (sections 104A–104U)

Insert after Division 2 of Part 9:

**Division 2A Miscellaneous provisions relating to
Director-General**

Subdivision 1 General provisions

5

104A Definition of “functions” of Director-General

In this Subdivision, *functions* of the Director-General means functions of the Director-General under Part 4, under an Act referred to in section 37 or 37A or under this Subdivision or Subdivision 2.

10

104B Exercise of functions through Transport Administration Corporation, joint ventures or other associations

(1) A function of the Director-General may, if the Director-General so determines, be exercised:

- (a) by the Transport Administration Corporation, or
- (b) by the Director-General (or by the Transport Administration Corporation) in a partnership, joint venture or other association with other persons or bodies.

15

(2) A function of the Director-General that is exercisable in relation to anything belonging to, or controlled by, the Director-General is also exercisable in relation to anything belonging to, or controlled by, the Transport Administration Corporation.

20

104C Exercise of functions in Director-General’s own capacity and on behalf of Crown

25

Nothing in this Division prevents the Director-General from exercising a function in his or her capacity as the Director-General and entering into contracts or doing other things on behalf of the Crown.

30

104D Transport Administration Corporation

(1) There is established by this Act a body corporate with the corporate name of the Transport Administration Corporation.

Transport Administration Amendment (Light Rail) Bill 1996

Schedule 1 Amendment of Transport Administration Act 1988

- (2) The Corporation is a statutory body representing the Crown.
- (3) The Corporation is, for the purposes of the *Public Finance and Audit Act 1983*, the *Annual Reports (Departments) Act 1985* or any other prescribed Act, taken to be part of the Department of Transport. 5
- (4) The affairs of the Corporation are to be managed and controlled by the Director-General. Any act, matter or thing done in the name of, or on behalf of, the Corporation by the Director-General is taken to have been done by the Corporation. 10

104E Power of Director-General to contract

- (1) The Director-General may make or enter into contracts or arrangements with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the exercise of the Director-General's functions. 15
- (2) Nothing in this section limits the operation of any provision of the *Passenger Transport Act 1990* or the *Rail Safety Act 1993*. 20

104F Sale, lease or other disposal of land

- (1) The Director-General may sell, lease or otherwise dispose of any of the Director-General's land.
- (2) The Director-General may transfer to the Transport Administration Corporation land (including an interest in land) vested in the Director-General. 25

104G Acquisition of land

- (1) The Director-General may, for the purpose of the exercise of the Director-General's functions, acquire land (including an interest in land) by agreement or compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. 30

-
- (2) The other purposes for which land may be acquired under subsection (1) include for the purposes of future sale, lease or disposal, that is, to enable the Director-General to exercise his or her functions in relation to land. 5
- (3) The Director-General may not acquire land under this section by compulsory process without the approval of the owner if it is being acquired for the purpose of re-sale. However, the owner's approval is not required:
- (a) if the land is acquired for the purpose of re-sale to the owner or operator of a light rail system or other transport facility, or 10
- (b) if the land forms part of, or adjoins or lies in the vicinity of, other land acquired at the same time under this section for a purpose other than the purpose of re-sale. 15
- (4) The Director-General may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* in relation to an interest in land to which section 104R applies that is under, on or over a public road unless it has first given a copy of the proposed notice to the Minister for Roads. 20
- (5) An acquisition of land under this section is not void merely because it is expressed to be for the purpose of exercising the functions of the Director-General or for the purposes of this Act. 25
- (6) Nothing in this section is taken to mean that the Director-General cannot exercise functions in relation to land unless the Director-General first compulsorily acquires the land concerned. 30

104H Application of Public Works Act 1912

- (1) For the purposes of the *Public Works Act 1912*, any acquisition of land under section 104G is taken to be for an authorised work and the Director-General is, in relation to the authorised work, taken to be the Constructing Authority. 35

Transport Administration Amendment (Light Rail) Bill 1996

Schedule 1 Amendment of Transport Administration Act 1988

- (2) Part 3 of the *Public Works Act 1912* does not apply in respect of works constructed for the purposes for which the land was acquired.

104I Other functions concerning land

- (1) The Director-General may, with the consent of the owner of any land, exercise in relation to the land any function that the Director-General could so exercise if the Director-General were the owner of the land. 5
- (2) The Director-General may exercise in relation to any land in which the Director-General holds an interest any function that a private individual could so exercise if the private individual were the holder of the interest. 10

104J Annual reporting requirements

The annual report of the Department of Transport is to include: 15

- (a) a report of the activities of the Director-General during the reporting year with respect to passenger transport facilities (including light rail systems) and a statement of any such proposed activities for the following year, and 20
- (b) the short, medium and long term objectives of the Director-General with respect to passenger transport facilities (including light rail systems) and the strategies for achieving those objectives.

104K Regulations 25

- (1) The regulations may make provision for or with respect to passenger transport facilities (including light rail systems) provided in the exercise of the Director-General's functions.
- (2) In particular, the regulations may make provision for or with respect to: 30
- (a) the terms and conditions on which passengers or other persons use those facilities, and

- (b) the use of and access to those facilities, and
- (c) the protection and preservation of those facilities, and
- (d) the security, safety and order of persons using those facilities.

5

Subdivision 2 Special provisions relating to light rail

104L Definitions

In this Subdivision:

develop a light rail system includes:

- (a) carry out development (within the meaning of the *Environmental Planning and Assessment Act 1979*) for the purposes of a light rail system, or
- (b) finance any such development, or
- (c) maintain any such development.

10

operate a light rail system means operate the system within the meaning of the *Rail Safety Act 1993*.

15

104M Light rail services

For the purposes of this Act, ***light rail services*** are railway passenger services provided by light rail vehicles, including passenger services declared by the regulations to be light rail services (whether described by reference to the class of vehicles providing the services or the rail or other system used to guide the vehicles providing the services).

20

104N Light rail system

25

- (1) For the purposes of this Act, a ***light rail system*** is a system for the provision of light rail services along a route declared under subsection (2), including tracks, catenaries, supports for tracks and catenaries, stops, access to stops, signalling and other control facilities, vehicles, vehicle depots and other facilities and equipment associated with the provision of those services.

30

Transport Administration Amendment (Light Rail) Bill 1996

Schedule 1 Amendment of Transport Administration Act 1988

- (2) The regulations may declare a route along a public street or through other land to be the route of a light rail system. A route may be so declared:
 - (a) whether or not a light rail service is operating along the route, and 5
 - (b) whether or not the State or an authority of the State owns or proposes to acquire the system providing the service.
- (3) A regulation may not declare a route along a public street to be the route of a light rail system unless the regulation is made on the recommendation of both the Minister administering this Act and the Minister administering the *Traffic Act 1909*. Any dispute in connection with the making of such a recommendation may be determined by the Premier. 10 15

104O Development and operation of light rail systems

- (1) The Director-General may develop light rail systems, or facilitate their development by other persons.
- (2) The Director-General may operate light rail systems, or facilitate their operation by other persons. 20

104P Part 5 of EPA Act to apply to development for light rail system

- (1) In this section:
 - development* has the same meaning as in Part 4 of the EPA Act. 25
 - EPA Act* means the *Environmental Planning and Assessment Act 1979*.
- (2) Development for the purposes of a light rail system:
 - (a) may be carried out without the necessity for development consent under Part 4 of the EPA Act, and 30
 - (b) may be so carried out even if the development would be prohibited, or would require development consent, in the absence of this section. 35

-
- (3) Development for the purposes of a light rail system is an activity within the meaning of Part 5 of the EPA Act and the Director-General is the proponent and a determining authority in relation to that activity for the purposes of that Part. 5
- Note.** By virtue of this subsection, the approval of the Minister administering the EPA Act is, if an EIS is prepared, required under Division 4 of Part 5 of that Act before the activity is carried out.
- (4) Development for the purposes of a light rail system includes anything that is incidental to the carrying out of any such development. 10

104Q Local government approvals not required for light rail system

- (1) This section applies to:
- (a) the construction of a light rail system, including the erection of any buildings that are associated with the system or the demolition of any buildings for the purposes of constructing the system, and 15
 - (b) anything done that is incidental to the erection or demolition of a building for the purposes of a light rail system, and 20
 - (c) the subdivision of land for the purposes of a light rail system.
- (2) The approval of the council of a local government area is not required under section 68 of the *Local Government Act 1993* or under subdivision legislation for anything to which this section applies. 25
- (3) In this section:
- building** and **erection** have the same meanings they have in the *Local Government Act 1993*. 30
- subdivision legislation** means Part 12 of the *Local Government Act 1919*, the *Strata Titles Act 1973*, the *Strata Titles (Leasehold) Act 1986* or the *Community Land Development Act 1989*.

104R Easements etc for light rail system

- (1) This section applies to:
- (a) easements or rights of way under, on or over, land, or
 - (b) restrictions on the use of land, 5
- for the purposes of the development or operation of a light rail system.
- (2) The functions of the Director-General under Subdivision 1 in relation to land extend (without limitation) to any easements, rights of way or restrictions on use to which this section applies, including: 10
- (a) easements without a dominant tenement, and
 - (b) easements for the support of a catenary from a building, structure or land.
- (3) Despite anything to the contrary in the *Land Acquisition (Just Terms Compensation) Act 1991*, compensation is not payable for the compulsory acquisition of an interest in land to which this section applies that is under, on or over a public road (within the meaning of the *Roads Act 1993*). 15 20
- (4) Despite anything to the contrary in the *Land Acquisition (Just Terms Compensation) Act 1991*, compensation is not payable for the compulsory acquisition of an interest in land to which this section applies that is an easement for support of a catenary from a building or structure or from any land (except compensation for actual damage done in the construction of the support for the catenary or caused by that support). 25

104S Exemption of light rail system from payment of rates and land tax 30

- (1) For the purpose of the application of the provisions of the following Acts relating to the payment of rates and taxes, land used or under construction for a light rail system is to be regarded as Crown land not leased for private purposes: 35

-
- (a) the *Local Government Act 1993*,
 - (b) the *Water Board (Corporatisation) Act 1994*,
 - (c) the *Hunter Water Board (Corporatisation) Act 1991*,
 - (d) the *Land Tax Management Act 1956*, 5
 - (e) any other Act prescribed by the regulations.
- (2) This section does not apply to land used or under construction for administrative offices, workshops and other maintenance facilities, vehicle depots or other purposes prescribed by the regulations. 10
- (3) The Minister may determine any dispute concerning the application of this section to any particular land.

104T Exemption from liability for stamp duty

The regulations may exempt any matter concerning the development or operation of a light rail system from liability for the payment of stamp duty under the *Stamp Duties Act 1920*. 15

104U Altering position of conduit for purposes of light rail system

- (1) The Director-General or a person authorised by the Director-General may serve a written notice on a person under this section if: 20
- (a) an alteration is required to be made in the position of a conduit owned by the person to facilitate the development or operation of a light rail system, and 25
 - (b) the alteration would not permanently damage the conduit or adversely affect its operation.
- (2) The notice:
- (a) must specify the work to be carried out, and 30
 - (b) must specify a reasonable time within which the work is to be carried out, and

Transport Administration Amendment (Light Rail) Bill 1996

Schedule 1 Amendment of Transport Administration Act 1988

(c) must include an undertaking by the owner or operator of the light rail system to pay the reasonable cost of carrying out the work (unless the Director-General has notified the owner of the conduit before it was installed that the installation would interfere with the operation of the light rail system). 5

(3) If the work is not carried out as required by the notice, the Director-General, or a person authorised by the Director-General, may carry out the work in a manner that does not permanently damage the conduit or adversely affect its operation. 10

(4) In this section, *conduit* means anything that is under, on or over a public road (or any other land on which no building or other structure is located) and is used for the conveyance of a substance, energy or signals. 15

[12] Schedule 7 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

Transport Administration Amendment (Light Rail) Act 1996. 20

[13] Schedule 7, Part 4

Insert after Part 3:

**Part 4 Provisions consequent on enactment of
Transport Administration Amendment (Light
Rail) Act 1996** 25

63 Definitions

In this Part:

roads transfer order means the order under section 150 of the *Roads Act 1993*, published in the Gazette of 24 November 1995 at page 7988 for the transfer of certain public roads from the Sydney City Council to the Roads and Traffic Authority. 30

Ultimo/Pymont light rail roads authority agreement
means the agreement made on 22 December 1995 between the Sydney City Council, the State Rail Authority of New South Wales and the Director-General of the Department of Transport relating to the Ultimo/Pymont Light Rail Transit System from Central Station, Sydney to Wattle Street, Pymont.

5

64 Termination of agreement

- (1) The Ultimo/Pymont light rail roads authority agreement is terminated by virtue of this clause and the parties to the agreement have no further obligations or rights under the agreement. 10
- (2) In particular, any indemnity under the agreement ceases on its termination, but without affecting any obligations actually incurred under the indemnity during the period the agreement was in force. 15
- (3) The consent of the Sydney City Council, as roads authority, to the roads transfer order is not affected by the termination of the agreement.

65 Revocation of roads transfer order

20

- (1) The roads transfer order is revoked by virtue of this clause.
- (2) On the revocation of the order, a further order is taken to have been made under section 150 of the *Roads Act 1993* transferring the public roads to which the revoked roads transfer order applied from the Roads and Traffic Authority to the Sydney City Council. The requirements of section 150 of that Act do not apply to the further order. 25
- (3) Any consent, approval, authorisation or other thing done by the Roads and Traffic Authority under the *Roads Act* 30

Transport Administration Amendment (Light Rail) Bill 1996

Schedule 1 Amendment of Transport Administration Act 1988

1993 as the roads authority for those public roads and having any force or effect on the commencement of this clause:

- (a) is not affected by subclause (1) or (2), and
- (b) is taken to have been given or done in accordance with the *Roads Act 1993*, as amended by the *Transport Administration Amendment (Light Rail) Act 1996*. 5

66 Amendment of Roads (General) Regulation 1994

The *Roads (General) Regulation 1994* is amended by omitting clause 79A. 10

Note. The clause concerned declared the RTA to be the roads authority for a certain area in the vicinity of Hay Street between Elizabeth and Quay Streets.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Local Government Act 1993 No 30

Section 611 Annual charge on rails, pipes etc

Insert at the end of section 6 (6) (c):

5

, or

- (d) the owner or operator of a light rail system (within the meaning of the *Transport Administration Act 1988*), but only if the matter relates to the development or operation of that system and is not excluded by the regulations from the exemption conferred by this paragraph.

10

2.2 Motor Accidents Act 1988 No 102

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

15

light rail vehicle means a vehicle used on a light rail system within the meaning of the *Transport Administration Act 1988*, or any other light rail system prescribed by the regulations under this Act.

[2] Section 3 (1), definition of "motor vehicle"

20

Insert "(other than a light rail vehicle)" after "tramway".

[3] Section 12 Commencement and duration of third-party policy

Insert after section 12 (10):

- (11) A licensed insurer is on risk in respect of a light rail vehicle under a third-party policy relating to the vehicle only during the period for which the policy is issued.

25

2.3 Rail Safety Act 1993 No 50

[1] Section 9 Act binds Crown

Insert after section 9 (2):

- (3) If the Director-General is the owner or operator of a railway, the functions of the Director-General under this Act in relation to the ownership or operation of the railway are to be exercised by the Minister or a person authorised by the Minister. 5

[2] Section 24 Style of accreditation

Insert after section 24 (3): 10

- (4) It is a condition of any accreditation that a third-party policy under the *Motor Accidents Act 1988* is in force in respect of each light rail vehicle owned by the accredited person that is required to be insured under that Act.

[3] Sections 79A and 79B 15

Insert after section 79:

79A Offence of failure to pay fares on railway

- (1) In this section, *train* means a train operated by the State Rail Authority, a light rail vehicle operated on a light rail system (within the meaning of the *Transport Administration Act 1988*) by the operator of that system or any other train of a class prescribed by the regulations. 20
- (2) A person who does any of the following is guilty of an offence: 25
- (a) without reasonable excuse, travels or attempts to travel on a train without previously having paid the fare,

-
- (b) travels or attempts to travel on a train without previously having paid the fare and fails, without reasonable excuse to pay the fare on demand made by an officer authorised in that regard by the operator of the train system, 5
- (c) knowingly and without reasonable excuse, fails to leave a train on arriving at the point to which he or she has paid the fare,
- (d) knowingly and without reasonable excuse, travels or attempts to travel on a train in a carriage of a class to which the person's ticket does not apply, 10
- (e) uses a travel pass to travel or attempt to travel on a train, knowing that he or she is not entitled to use the pass or that the pass is no longer valid.

Maximum penalty: 5 penalty units. 15

- (3) It is not a defence to a prosecution under subsection (2) (a) for a person to prove:

- (a) that the time taken or likely to have been taken in payment of the fare before travelling or attempting to travel on the train would or may have caused the person to have been unable to so travel or attempt to travel, or 20
- (b) that the person intended to pay the fare while travelling or on arriving at a particular place,

but it is a defence to such a prosecution if the person proves: 25

- (c) that it appeared to the person, after reasonable investigation, that no facilities were available at the station or stop at which the person got on or attempted to get on the train to enable him or her to pay the fare before getting on or attempting to get on the train, or 30

- (d) that the person:
 - (i) had arrived at that station or stop within such period of time before getting on or attempting to get on the train as would, in the circumstances ordinarily existing at that time of the day and on that day of the week, have enabled the person to have paid the fare before getting on or attempting to get on the train, and 5
 - (ii) diligently took all steps reasonably necessary to pay the fare, but that the person was unable, due to circumstances beyond his or her control, to pay the fare. 10

79B Offences relating to passengers or vehicles

- (1) In this section, *train* has the same meaning it has in section 79A. 15
- (2) The regulations may make provisions for or with respect to:
 - (a) the regulation or prohibition of eating, drinking or smoking in trains or in other public areas of a railway, and 20
 - (b) the conduct of passengers and drivers on trains or in other parts of a railway, and
 - (c) the powers and duties of drivers of trains and of authorised officers, and 25
 - (d) the authority of drivers of trains, and of authorised officers, to eject persons guilty of any contravention of a regulation, and
 - (e) the taking up or setting down of passengers or other matters incidental to the transport of passengers, and 30
 - (f) the carriage of passengers' luggage or other goods, and animals, on trains, and
 - (g) the regulation or prohibition of the carriage of passengers standing in or on any part of a train, and 35

-
- | | | |
|-----|--|----|
| (h) | the custody and return of property left in trains or in other parts of a railway, the payment of compensation for any such property and the disposal or sale of any such property not claimed and the time of any such disposal or sale, and | 5 |
| (i) | the exhibition in or on any train or other part of a railway of such notices in the public interest as the Director-General considers necessary, and | |
| (j) | the erection and display of signs and notices for the guidance of the drivers of trains and the public, and | 10 |
| (k) | the sale of tickets and the conditions under which tickets must be sold, and | |
| (l) | generally as to the regulation and control of trains, of their drivers and passengers, and of other parts of a railway. | 15 |

2.4 Roads Act 1993 No 33

[1] Section 4A

Insert after section 4:

4A Notes in text

20

Notes in the text of this Act do not form part of this Act.

[2] Section 5 Right of passage along public road by members of the public

Insert after section 5 (1):

- | | | |
|------|--|----|
| (1A) | The right conferred by this section extends to the right of passage of members of the public in a light rail or other railway vehicle. | 25 |
|------|--|----|

[3] Section 64 RTA may exercise functions of roads authority with respect to certain roads

Insert at the end of the section:

Note. See Division 5 of Part 9 as to the exercise by the RTA of the functions of another roads authority in respect of certain actions undertaken on a public road for the purposes of, or incidental to, development or operation of a light rail system.

5

[4] Part 9, Division 5

Insert after Division 4:

Division 5 Light rail systems

10

144A Definitions

In this Division:

develop or *operate* a light rail system has the same meaning as in section 104L of the *Transport Administration Act 1988*.

15

Director-General means the Director-General of the Department of Transport.

light rail system has the same meaning as in the *Transport Administration Act 1988*.

144B Roads authority not to obstruct light rail system

20

- (1) A roads authority, in the exercise of any of its functions under this Act, must not, without the prior consent of the Director-General:

- (a) carry out, or authorise the carrying out, of any work, or
- (b) grant any consent or authorisation or issue any direction, or
- (c) take any other action (including disposing of or granting any interest in land),

25

that prevents or otherwise obstructs the passage of light rail vehicles along the route of a light rail system declared under the *Transport Administration Act 1988* or the carrying out or use of any work approved under section 144C.

5

- (2) The Director-General must, before granting a consent under this section consult with:

- (a) the RTA, whether or not the RTA is the roads authority concerned, and
- (b) the operator of the light rail system, if the Director-General is not the operator of the system.

10

- (3) A consent by the Director-General:

- (a) may be granted on the Director-General's own initiative or on the application of any person, and
- (b) may be granted generally or for a particular case, and
- (c) may be granted for specific matters or classes of matters, and
- (d) may be granted on such conditions as the Director-General thinks fit.

15

20

- (4) Nothing in this section prevents the temporary closure of any public street or the taking of other action that is authorised by section 23 of the *Traffic Act 1909*.

144C Consent for works and other action relating to light rail system

25

- (1) This section applies to and in respect of the carrying out or use of works or the taking of other action in connection with the development or operation of a light rail system that cannot be carried out, used or undertaken without the prior consent or approval of a roads authority under this Act.

30

- (2) In the case of work or other action to which this section applies, the consent or approval of the relevant roads authority (if that roads authority is not the RTA) is not

required but the consent or approval of the RTA must be obtained before the work is carried out or used or the other action undertaken. The provisions of this Act apply to the granting of any such consent or approval as if the relevant roads authority were the RTA. 5

- (3) The RTA is not to revoke any consent or approval for any work or other action to which this section applies unless it has first consulted the Director-General.

144D Directions and other functions relating to light rail systems 10

- (1) This section applies to and in respect of:
- (a) the giving of any direction or the imposition of any requirement by, or
 - (b) the exercise of any other function of,
- a roads authority under this Act in connection with the development or operation of a light rail system. 15
- (2) A direction, requirement or function to which this section applies is, if given, made or exercised under this Act, to be given, made or exercised by the RTA only, whether or not it is the relevant roads authority in the particular circumstances. 20

144E Division prevails

This Division has effect despite any other provision of this Act.

2.5 Traffic Act 1909 No 5 25

[1] Section 2 Definitions

Insert in alphabetical order in section 2 (1):

Light rail vehicle means a vehicle used on a light rail system within the meaning of the *Transport Administration Act 1988*, or any other light rail system prescribed by the regulations under this Act. 30

[2] Section 2 (1), definition of "Motor vehicle"

Insert "(other than a light rail vehicle)" after "tramway".

[3] Section 2 (1), definition of "Vehicle"

Omit the definition. Insert instead:

Vehicle means any description of vehicle on wheels 5
(including a light rail vehicle) but not including other
vehicles used on railways or tramways.

[4] Section 5B Motor vehicles to be registered

Insert after section 5B (1):

(1A) A light rail vehicle is exempt from registration. 10

[5] Section 6 Driver must be licensed, and vehicle numbered

Insert after section 6 (1A):

(2) Subsection (1) does not apply to or in respect of a light
rail vehicle.

[6] Section 25 Removal of dangers and obstructions to traffic 15

Insert at the end of paragraph (b) in the definition of *appropriate
roads authority* in section 25 (3):

, and

(c) in relation to that part of a public street used for
the passage of light rail vehicles or as an access to 20
light rail vehicles—the Director-General of the
Department of Transport and the operator of the
light rail system.

Transport Administration Amendment (Light Rail) Bill 1996

Schedule 2 Amendment of other Acts

[7] Section 26 Removal of unattended motor vehicles from clearways, transit lanes and other places

Insert after section 26 (1):

- (1A) An authorised officer may cause an unattended motor vehicle unlawfully standing on any place to be removed in accordance with this section if, in the opinion of the officer, it is obstructing the passage of a light rail vehicle. 5

[8] Section 26 (2) (a)

Insert “, or an obstruction to the passage of a light rail vehicle” after “undue traffic congestion”. 10

[9] Section 26 (8), definition of “authorised officer”

Insert after paragraph (b):

- (b1) a person, or a person of a class, who is authorised by the Director-General of the Department of Transport to exercise the functions of an authorised officer under this section, but only in respect of the removal of unattended vehicles obstructing the passage of light rail vehicles, or 15



New South Wales

Transport Administration Amendment (Light Rail) Bill 1996

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Transport Administration Act 1988 No 109	2
4 Amendment of other Acts	2

Schedules

1 Amendment of Transport Administration Act 1988	3
2 Amendment of other Acts	18

This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Clerk of the Legislative Assembly.
Legislative Assembly*



New South Wales

Transport Administration Amendment (Light Rail) Bill 1996

Act No , 1996

An Act to amend the *Transport Administration Act 1988* and other Acts with respect to light rail services; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Transport Administration Amendment (Light Rail) Act 1996*.

2 Commencement

5

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Transport Administration Act 1988 No 109

The *Transport Administration Act 1988* is amended as set out in Schedule 1.

10

4 Amendment of other Acts

Each Act specified in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendment of Transport Administration Act 1988

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

5

light rail services—see section 104M.

light rail system—see section 104N.

Transport Administration Corporation means the
Transport Administration Corporation constituted under
this Act.

10

[2] Section 36 References to functions of Director-General

Insert “or 37A or under Division 2A of Part 9” after “section 37”.

[3] Section 38 Functions of ensuring provision of appropriate passenger services

Omit “section 43” from section 38 (2).

15

Insert instead “section 104E”.

[4] Section 38 (2A)

Insert after section 38 (2):

(2A) This section extends to light rail services.

[5] Section 40 Delegation

20

Omit section 40 (3) (a).

[6] Section 43 Power of Director-General to contract

Omit the section.

[7] Section 44 Constitution of PTA

Omit "not more than 5 members" from section 44 (2) (b).
Insert instead "not more than 6 members".

5

[8] Section 44 (2) (b) (v)

Insert after section 44 (2) (b) (iv):

- (v) a representative of light rail system operators, and

[9] Section 70 Payment into State Rail Authority Fund

10

Omit "under section 97 or the regulations under section 99" from section 70 (c).

Insert instead "under the regulations under section 99, or under section 79A (or the regulations under section 79B) of the *Rail Safety Act 1993* in connection with railway services operated by the State Rail Authority (but only if proceedings or penalty notices for the offences were instituted or issued by that Authority or an employee of that Authority)".

15

[10] Section 74 Payment into State Transit Authority Fund

Omit "under the regulations under section 104" from section 74 (c).
Insert instead "under the regulations under section 104, or under the regulations under section 63 of the *Passenger Transport Act 1990* in connection with bus or ferry services operated by the State Transit Authority (but only if proceedings or penalty notices for the offences were instituted or issued by that Authority or an employee of that Authority)".

20

25

[11] Part 9, Division 2A (sections 104A–104V)

Insert after Division 2 of Part 9:

**Division 2A Miscellaneous provisions relating to
Director-General**

Subdivision 1 General provisions

5

104A Definition of “functions” of Director-General

In this Subdivision, *functions* of the Director-General means functions of the Director-General under Part 4, under an Act referred to in section 37 or 37A or under this Subdivision or Subdivision 2.

10

104B Exercise of functions through Transport Administration Corporation, joint ventures or other associations

(1) A function of the Director-General may, if the Director-General so determines, be exercised:

- (a) by the Transport Administration Corporation, or
- (b) by the Director-General (or by the Transport Administration Corporation) in a partnership, joint venture or other association with other persons or bodies.

15

(2) A function of the Director-General that is exercisable in relation to anything belonging to, or controlled by, the Director-General is also exercisable in relation to anything belonging to, or controlled by, the Transport Administration Corporation.

20

104C Exercise of functions in Director-General’s own capacity and on behalf of Crown

25

Nothing in this Division prevents the Director-General from exercising a function in his or her capacity as the Director-General and entering into contracts or doing other things on behalf of the Crown.

30

104D Transport Administration Corporation

(1) There is established by this Act a body corporate with the corporate name of the Transport Administration Corporation.

Transport Administration Amendment (Light Rail) Bill 1996

Schedule 1 Amendment of Transport Administration Act 1988

- (2) The Corporation is a statutory body representing the Crown.
- (3) The Corporation is, for the purposes of the *Public Finance and Audit Act 1983*, the *Annual Reports (Departments) Act 1985* or any other prescribed Act, taken to be part of the Department of Transport. 5
- (4) The affairs of the Corporation are to be managed and controlled by the Director-General. Any act, matter or thing done in the name of, or on behalf of, the Corporation by the Director-General is taken to have been done by the Corporation. 10

104E Power of Director-General to contract

- (1) The Director-General may make or enter into contracts or arrangements with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the exercise of the Director-General's functions. 15
- (2) Nothing in this section limits the operation of any provision of the *Passenger Transport Act 1990* or the *Rail Safety Act 1993*. 20

104F Sale, lease or other disposal of land

- (1) The Director-General may sell, lease or otherwise dispose of any of the Director-General's land.
- (2) The Director-General may transfer to the Transport Administration Corporation land (including an interest in land) vested in the Director-General. 25

104G Acquisition of land

- (1) The Director-General may, for the purpose of the exercise of the Director-General's functions, acquire land (including an interest in land) by agreement or compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*. 30

-
- (2) The other purposes for which land may be acquired under subsection (1) include for the purposes of future sale, lease or disposal, that is, to enable the Director-General to exercise his or her functions in relation to land.

5
 - (3) The Director-General may not acquire land under this section by compulsory process without the approval of the owner if it is being acquired for the purpose of re-sale. However, the owner's approval is not required:

 - (a) if the land is acquired for the purpose of re-sale to the owner or operator of a light rail system or other transport facility, or
 - (b) if the land forms part of, or adjoins or lies in the vicinity of, other land acquired at the same time under this section for a purpose other than the purpose of re-sale.

10

15
 - (4) The Director-General may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* in relation to an interest in land to which section 104R applies that is under, on or over a public road unless it has first given a copy of the proposed notice to the Minister for Roads.

20
 - (5) An acquisition of land under this section is not void merely because it is expressed to be for the purpose of exercising the functions of the Director-General or for the purposes of this Act.

25
 - (6) Nothing in this section is taken to mean that the Director-General cannot exercise functions in relation to land unless the Director-General first compulsorily acquires the land concerned.

30

104H Application of Public Works Act 1912

- (1) For the purposes of the *Public Works Act 1912*, any acquisition of land under section 104G is taken to be for an authorised work and the Director-General is, in relation to the authorised work, taken to be the Constructing Authority.

35

- (2) Part 3 of the *Public Works Act 1912* does not apply in respect of works constructed for the purposes for which the land was acquired.

104I Other functions concerning land

- (1) The Director-General may, with the consent of the owner of any land, exercise in relation to the land any function that the Director-General could so exercise if the Director-General were the owner of the land. 5
- (2) The Director-General may exercise in relation to any land in which the Director-General holds an interest any function that a private individual could so exercise if the private individual were the holder of the interest. 10

104J Annual reporting requirements

The annual report of the Department of Transport is to include: 15

- (a) a report of the activities of the Director-General during the reporting year with respect to passenger transport facilities (including light rail systems) and a statement of any such proposed activities for the following year, and 20
- (b) the short, medium and long term objectives of the Director-General with respect to passenger transport facilities (including light rail systems) and the strategies for achieving those objectives.

104K Regulations 25

- (1) The regulations may make provision for or with respect to passenger transport facilities (including light rail systems) provided in the exercise of the Director-General's functions.
- (2) In particular, the regulations may make provision for or with respect to: 30
- (a) the terms and conditions on which passengers or other persons use those facilities, and

- (b) the use of and access to those facilities, and
- (c) the protection and preservation of those facilities, and
- (d) the security, safety and order of persons using those facilities.

5

Subdivision 2 Special provisions relating to light rail
104L Definitions

In this Subdivision:

develop a light rail system includes:

- (a) carry out development (within the meaning of the *Environmental Planning and Assessment Act 1979*) for the purposes of a light rail system, or
- (b) finance any such development, or
- (c) maintain any such development.

10

operate a light rail system means operate the system within the meaning of the *Rail Safety Act 1993*.

15

104M Light rail services

For the purposes of this Act, ***light rail services*** are railway passenger services provided by light rail vehicles, including passenger services declared by the regulations to be light rail services (whether described by reference to the class of vehicles providing the services or the rail or other system used to guide the vehicles providing the services).

20

104N Light rail system

25

- (1) For the purposes of this Act, a ***light rail system*** is a system for the provision of light rail services along a route declared under subsection (2), including tracks, catenaries, supports for tracks and catenaries, stops, access to stops, signalling and other control facilities, vehicles, vehicle depots and other facilities and equipment associated with the provision of those services.

30

-
- (2) The regulations may declare a route along a public street or through other land to be the route of a light rail system. A route may be so declared:
- (a) whether or not a light rail service is operating along the route, and 5
 - (b) whether or not the State or an authority of the State owns or proposes to acquire the system providing the service.
- (3) A regulation may not declare a route along a public street to be the route of a light rail system unless the regulation is made on the recommendation of both the Minister administering this Act and the Minister administering the *Traffic Act 1909*. 10
- (4) A regulation may not declare a route through any park or bushland to be the route of a light rail system unless the regulation is made on the recommendation of both the Minister administering this Act and the Minister for the Environment. In this subsection: 15
- bushland*** means land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation, being land that is zoned or reserved for public open space purposes under an environmental planning instrument. 20
- park*** means an area of open space used for recreation (other than bushland), being an area that is vested in or under the control of a public or local authority. 25
- (5) Any dispute in connection with the making of a recommendation under subsection (3) or (4) may be determined by the Premier. 30

104O Development and operation of light rail systems

- (1) The Director-General may develop light rail systems, or facilitate their development by other persons.
- (2) The Director-General may operate light rail systems, or facilitate their operation by other persons. 35

104P Part 5 of EPA Act to apply to development for light rail system

- (1) In this section:

development has the same meaning as in Part 4 of the EPA Act.

5

EPA Act means the *Environmental Planning and Assessment Act 1979*.

- (2) Development for the purposes of a light rail system:

(a) may be carried out without the necessity for development consent under Part 4 of the EPA Act, and

10

(b) may be so carried out even if the development would be prohibited, or would require development consent, in the absence of this section.

15

- (3) Development for the purposes of a light rail system is an activity within the meaning of Part 5 of the EPA Act and the Director-General is the proponent and a determining authority in relation to that activity for the purposes of that Part.

20

Note. By virtue of this subsection, the approval of the Minister administering the EPA Act is, if an EIS is prepared, required under Division 4 of Part 5 of that Act before the activity is carried out.

- (4) Development for the purposes of a light rail system includes anything that is incidental to the carrying out of any such development.

25

104Q Local government approvals not required for light rail system

- (1) This section applies to:

(a) the construction of a light rail system, including the erection of any buildings that are associated with the system or the demolition of any buildings for the purposes of constructing the system, and

30

- (b) anything done that is incidental to the erection or demolition of a building for the purposes of a light rail system, and
 - (c) the subdivision of land for the purposes of a light rail system. 5
- (2) The approval of the council of a local government area is not required under section 68 of the *Local Government Act 1993* or under subdivision legislation for anything to which this section applies.
- (3) In this section: 10
 - building* and *erection* have the same meanings they have in the *Local Government Act 1993*.
 - subdivision legislation* means Part 12 of the *Local Government Act 1919*, the *Strata Titles Act 1973*, the *Strata Titles (Leasehold) Act 1986* or the *Community Land Development Act 1989*. 15

104R Easements etc for light rail system

- (1) This section applies to:
 - (a) easements or rights of way under, on or over, land, or 20
 - (b) restrictions on the use of land,for the purposes of the development or operation of a light rail system.
- (2) The functions of the Director-General under Subdivision 1 in relation to land extend (without limitation) to any easements, rights of way or restrictions on use to which this section applies, including: 25
 - (a) easements without a dominant tenement, and
 - (b) easements for the support of a catenary from a building, structure or land. 30

-
- (3) Despite anything to the contrary in the *Land Acquisition (Just Terms Compensation) Act 1991*, compensation is not payable for the compulsory acquisition of an interest in land to which this section applies that is under, on or over a public road (within the meaning of the *Roads Act 1993*). 5
- (4) Despite anything to the contrary in the *Land Acquisition (Just Terms Compensation) Act 1991*, compensation is not payable for the compulsory acquisition of an interest in land to which this section applies that is an easement for support of a catenary from a building or structure or from any land (except compensation for actual damage done in the construction of the support for the catenary or caused by that support). 10
- 104S Exemption of light rail system from payment of rates and land tax** 15
- (1) For the purpose of the application of the provisions of the following Acts relating to the payment of rates and taxes, land used or under construction for a light rail system is to be regarded as Crown land not leased for private purposes: 20
- (a) the *Local Government Act 1993*,
 - (b) the *Water Board (Corporatisation) Act 1994*,
 - (c) the *Hunter Water Board (Corporatisation) Act 1991*, 25
 - (d) the *Land Tax Management Act 1956*,
 - (e) any other Act prescribed by the regulations.
- (2) This section does not apply to land used or under construction for administrative offices, workshops and other maintenance facilities, vehicle depots or other purposes prescribed by the regulations. 30
-

- (3) The Minister may determine any dispute concerning the application of this section to any particular land.

104T Exemption from liability for stamp duty

The regulations may exempt any matter concerning the development or operation of a light rail system from liability for the payment of stamp duty under the *Stamp Duties Act 1920*. 5

104U Altering position of conduit for purposes of light rail system

- (1) The Director-General or a person authorised by the Director-General may serve a written notice on a person under this section if: 10
- (a) an alteration is required to be made in the position of a conduit owned by the person to facilitate the development or operation of a light rail system, and 15
 - (b) the alteration would not permanently damage the conduit or adversely affect its operation.
- (2) The notice:
- (a) must specify the work to be carried out, and 20
 - (b) must specify a reasonable time within which the work is to be carried out, and
 - (c) must include an undertaking by the owner or operator of the light rail system to pay the reasonable cost of carrying out the work (unless the Director-General has notified the owner of the conduit before it was installed that the installation would interfere with the operation of the light rail system). 25
- (3) If the work is not carried out as required by the notice, the Director-General, or a person authorised by the Director-General, may carry out the work in a manner that does not permanently damage the conduit or adversely affect its operation. 30

- (4) In this section, **conduit** means anything that is under, on or over a public road (or any other land on which no building or other structure is located) and is used for the conveyance of a substance, energy or signals.

104V Resolution of disputes concerning development of light rail 5

- (1) This section applies to the following disputes:
- (a) a dispute between the relevant Ministers about a recommendation under section 104N relating to the declaration of a route of a light rail system, 10
 - (b) a dispute between the Director-General and the Roads and Traffic Authority about any action of that Authority that may adversely affect the development of light rail systems and that is referred to relevant Ministers under section 261 of the *Roads Act 1993* or section 111 of this Act. 15
- (2) The annual report of the Department of Transport is to include a report of any dispute to which this section applies that is determined by the Premier.
- (3) In this section, a reference to the development of light rail systems is a reference to the planning and development of new or significant extensions to light rail systems, but not including activities associated with the construction or maintenance of light rail systems. 20

[12] Schedule 7 Savings, transitional and other provisions 25

Insert at the end of clause 2 (1):

Transport Administration Amendment (Light Rail) Act 1996.

[13] **Schedule 7, Part 4**

Insert after Part 3:

**Part 4 Provisions consequent on enactment of
Transport Administration Amendment (Light
Rail) Act 1996**

5

63 Definitions

In this Part:

roads transfer order means the order under section 150 of the *Roads Act 1993*, published in the Gazette of 24 November 1995 at page 7988 for the transfer of certain public roads from the Sydney City Council to the Roads and Traffic Authority. 10

Ultimo/Pymont light rail roads authority agreement means the agreement made on 22 December 1995 between the Sydney City Council, the State Rail Authority of New South Wales and the Director-General of the Department of Transport relating to the Ultimo/Pymont Light Rail Transit System from Central Station, Sydney to Wattle Street, Pymont. 15

64 Termination of agreement

20

- (1) The Ultimo/Pymont light rail roads authority agreement is terminated by virtue of this clause and the parties to the agreement have no further obligations or rights under the agreement.
- (2) In particular, any indemnity under the agreement ceases on its termination, but without affecting any obligations actually incurred under the indemnity during the period the agreement was in force. 25
- (3) The consent of the Sydney City Council, as roads authority, to the roads transfer order is not affected by the termination of the agreement. 30

65 Revocation of roads transfer order

- (1) The roads transfer order is revoked by virtue of this clause.
- (2) On the revocation of the order, a further order is taken to have been made under section 150 of the *Roads Act 1993* transferring the public roads to which the revoked roads transfer order applied from the Roads and Traffic Authority to the Sydney City Council. The requirements of section 150 of that Act do not apply to the further order. 5
10
- (3) Any consent, approval, authorisation or other thing done by the Roads and Traffic Authority under the *Roads Act 1993* as the roads authority for those public roads and having any force or effect on the commencement of this clause: 15
 - (a) is not affected by subclause (1) or (2), and
 - (b) is taken to have been given or done in accordance with the *Roads Act 1993*, as amended by the *Transport Administration Amendment (Light Rail) Act 1996*. 20

66 Amendment of Roads (General) Regulation 1994

The *Roads (General) Regulation 1994* is amended by omitting clause 79A.

Note. The clause concerned declared the RTA to be the roads authority for a certain area in the vicinity of Hay Street between Elizabeth and Quay Streets. 25

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Local Government Act 1993 No 30

Section 611 Annual charge on rails, pipes etc

Insert at the end of section 6 (6) (c): 5

, or

- (d) the owner or operator of a light rail system (within the meaning of the *Transport Administration Act 1988*), but only if the matter relates to the development or operation of that system and is not excluded by the regulations from the exemption conferred by this paragraph. 10

2.2 Motor Accidents Act 1988 No 102

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1): 15

light rail vehicle means a vehicle used on a light rail system within the meaning of the *Transport Administration Act 1988*, or any other light rail system prescribed by the regulations under this Act.

[2] Section 3 (1), definition of "motor vehicle" 20

Insert "(other than a light rail vehicle)" after "tramway".

[3] Section 12 Commencement and duration of third-party policy

Insert after section 12 (10):

- (11) A licensed insurer is on risk in respect of a light rail vehicle under a third-party policy relating to the vehicle only during the period for which the policy is issued. 25

2.3 Rail Safety Act 1993 No 50

[1] Section 9 Act binds Crown

Insert after section 9 (2):

- (3) If the Director-General is the owner or operator of a railway, the functions of the Director-General under this Act in relation to the ownership or operation of the railway are to be exercised by the Minister or a person authorised by the Minister. 5

[2] Section 24 Style of accreditation

Insert after section 24 (3): 10

- (4) It is a condition of any accreditation that a third-party policy under the *Motor Accidents Act 1988* is in force in respect of each light rail vehicle owned by the accredited person that is required to be insured under that Act.

[3] Sections 79A and 79B 15

Insert after section 79:

79A Offence of failure to pay fares on railway

- (1) In this section, *train* means a train operated by the State Rail Authority, a light rail vehicle operated on a light rail system (within the meaning of the *Transport Administration Act 1988*) by the operator of that system or any other train of a class prescribed by the regulations. 20
- (2) A person who does any of the following is guilty of an offence: 25
- (a) without reasonable excuse, travels or attempts to travel on a train without previously having paid the fare,

- (b) travels or attempts to travel on a train without previously having paid the fare and fails, without reasonable excuse to pay the fare on demand made by an officer authorised in that regard by the operator of the train system, 5
 - (c) knowingly and without reasonable excuse, fails to leave a train on arriving at the point to which he or she has paid the fare,
 - (d) knowingly and without reasonable excuse, travels or attempts to travel on a train in a carriage of a class to which the person's ticket does not apply, 10
 - (e) uses a travel pass to travel or attempt to travel on a train, knowing that he or she is not entitled to use the pass or that the pass is no longer valid.
- Maximum penalty: 5 penalty units. 15
- (3) It is not a defence to a prosecution under subsection (2) (a) for a person to prove:
 - (a) that the time taken or likely to have been taken in payment of the fare before travelling or attempting to travel on the train would or may have caused the person to have been unable to so travel or attempt to travel, or 20
 - (b) that the person intended to pay the fare while travelling or on arriving at a particular place,
- but it is a defence to such a prosecution if the person proves: 25
 - (c) that it appeared to the person, after reasonable investigation, that no facilities were available at the station or stop at which the person got on or attempted to get on the train to enable him or her to pay the fare before getting on or attempting to get on the train, or 30

-
- (d) that the person:
 - (i) had arrived at that station or stop within such period of time before getting on or attempting to get on the train as would, in the circumstances ordinarily existing at that time of the day and on that day of the week, have enabled the person to have paid the fare before getting on or attempting to get on the train, and 5
 - (ii) diligently took all steps reasonably necessary to pay the fare, but that the person was unable, due to circumstances beyond his or her control, to pay the fare. 10

79B Offences relating to passengers or vehicles

- (1) In this section, *train* has the same meaning it has in section 79A. 15
- (2) The regulations may make provisions for or with respect to:
 - (a) the regulation or prohibition of eating, drinking or smoking in trains or in other public areas of a railway, and 20
 - (b) the conduct of passengers and drivers on trains or in other parts of a railway, and
 - (c) the powers and duties of drivers of trains and of authorised officers, and 25
 - (d) the authority of drivers of trains, and of authorised officers, to eject persons guilty of any contravention of a regulation, and
 - (e) the taking up or setting down of passengers or other matters incidental to the transport of passengers, and 30
 - (f) the carriage of passengers' luggage or other goods, and animals, on trains, and
 - (g) the regulation or prohibition of the carriage of passengers standing in or on any part of a train, and 35

- (h) the custody and return of property left in trains or in other parts of a railway, the payment of compensation for any such property and the disposal or sale of any such property not claimed and the time of any such disposal or sale, and 5
- (i) the exhibition in or on any train or other part of a railway of such notices in the public interest as the Director-General considers necessary, and
- (j) the erection and display of signs and notices for the guidance of the drivers of trains and the public, and 10
- (k) the sale of tickets and the conditions under which tickets must be sold, and
- (l) generally as to the regulation and control of trains, of their drivers and passengers, and of other parts of a railway. 15

2.4 Roads Act 1993 No 33

[1] Section 4A

Insert after section 4:

4A Notes in text 20

Notes in the text of this Act do not form part of this Act.

[2] Section 5 Right of passage along public road by members of the public

Insert after section 5 (1):

- (1A) The right conferred by this section extends to the right of passage of members of the public in a light rail or other railway vehicle. 25

[3] Section 64 RTA may exercise functions of roads authority with respect to certain roads

Insert at the end of the section:

Note. See Division 5 of Part 9 as to the exercise by the RTA of the functions of another roads authority in respect of certain actions undertaken on a public road for the purposes of, or incidental to, development or operation of a light rail system.

5

[4] Part 9, Division 5

Insert after Division 4:

Division 5 Light rail systems

10

144A Definitions

In this Division:

develop or *operate* a light rail system has the same meaning as in section 104L of the *Transport Administration Act 1988*.

15

Director-General means the Director-General of the Department of Transport.

light rail system has the same meaning as in the *Transport Administration Act 1988*.

144B Roads authority not to obstruct light rail system

20

- (1) A roads authority, in the exercise of any of its functions under this Act, must not, without the prior consent of the Director-General:

- (a) carry out, or authorise the carrying out, of any work, or
- (b) grant any consent or authorisation or issue any direction, or
- (c) take any other action (including disposing of or granting any interest in land),

25

Transport Administration Amendment (Light Rail) Bill 1996

Schedule 2 Amendment of other Acts

that prevents or otherwise obstructs the passage of light rail vehicles along the route of a light rail system declared under the *Transport Administration Act 1988* or the carrying out or use of any work approved under section 144C.

5

(2) The Director-General must, before granting a consent under this section consult with:

(a) the RTA, whether or not the RTA is the roads authority concerned, and

(b) the operator of the light rail system, if the Director-General is not the operator of the system.

10

(3) A consent by the Director-General:

(a) may be granted on the Director-General's own initiative or on the application of any person, and

(b) may be granted generally or for a particular case, and

15

(c) may be granted for specific matters or classes of matters, and

(d) may be granted on such conditions as the Director-General thinks fit.

20

(4) Nothing in this section prevents the temporary closure of any public street or the taking of other action that is authorised by section 23 of the *Traffic Act 1909*.

144C Consent for works and other action relating to light rail system

25

(1) This section applies to and in respect of the carrying out or use of works or the taking of other action in connection with the development or operation of a light rail system that cannot be carried out, used or undertaken without the prior consent or approval of a roads authority under this Act.

30

(2) In the case of work or other action to which this section applies, the consent or approval of the relevant roads authority (if that roads authority is not the RTA) is not

required but the consent or approval of the RTA must be obtained before the work is carried out or used or the other action undertaken. The provisions of this Act apply to the granting of any such consent or approval as if the relevant roads authority were the RTA.

5

- (3) The RTA is not to revoke any consent or approval for any work or other action to which this section applies unless it has first consulted the Director-General.

144D Directions and other functions relating to light rail systems

10

- (1) This section applies to and in respect of:
- (a) the giving of any direction or the imposition of any requirement by, or
 - (b) the exercise of any other function of,
- a roads authority under this Act in connection with the development or operation of a light rail system.
- (2) A direction, requirement or function to which this section applies is, if given, made or exercised under this Act, to be given, made or exercised by the RTA only, whether or not it is the relevant roads authority in the particular circumstances.

15

20

144E Division prevails

This Division has effect despite any other provision of this Act.

2.5 Traffic Act 1909 No 5

25

[1] Section 2 Definitions

Insert in alphabetical order in section 2 (1):

Light rail vehicle means a vehicle used on a light rail system within the meaning of the *Transport Administration Act 1988*, or any other light rail system prescribed by the regulations under this Act.

30

[2] Section 2 (1), definition of "Motor vehicle"

Insert "(other than a light rail vehicle)" after "tramway".

[3] Section 2 (1), definition of "Vehicle"

Omit the definition. Insert instead:

Vehicle means any description of vehicle on wheels 5
(including a light rail vehicle) but not including other
vehicles used on railways or tramways.

[4] Section 5B Motor vehicles to be registered

Insert after section 5B (1):

(1A) A light rail vehicle is exempt from registration. 10

[5] Section 6 Driver must be licensed, and vehicle numbered

Insert after section 6 (1A):

(2) Subsection (1) does not apply to or in respect of a light
rail vehicle.

[6] Section 25 Removal of dangers and obstructions to traffic 15

Insert at the end of paragraph (b) in the definition of *appropriate
roads authority* in section 25 (3):

, and

(c) in relation to that part of a public street used for 20
the passage of light rail vehicles or as an access to
light rail vehicles—the Director-General of the
Department of Transport and the operator of the
light rail system.

[7] Section 26 Removal of unattended motor vehicles from clearways, transit lanes and other places

Insert after section 26 (1):

- (1A) An authorised officer may cause an unattended motor vehicle unlawfully standing on any place to be removed in accordance with this section if, in the opinion of the officer, it is obstructing the passage of a light rail vehicle.

5

[8] Section 26 (2) (a)

Insert “, or an obstruction to the passage of a light rail vehicle” after “undue traffic congestion”.

10

[9] Section 26 (8), definition of “authorised officer”

Insert after paragraph (b):

- (b1) a person, or a person of a class, who is authorised by the Director-General of the Department of Transport to exercise the functions of an authorised officer under this section, but only in respect of the removal of unattended vehicles obstructing the passage of light rail vehicles, or

15



New South Wales

Transport Administration Amendment (Light Rail) Act 1996 No 128

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Transport Administration Act 1988 No 109	2
4 Amendment of other Acts	2

Schedules

1 Amendment of Transport Administration Act 1988	3
2 Amendment of other Acts	18



New South Wales

Transport Administration Amendment (Light Rail) Act 1996 No 128

Act No 128, 1996

An Act to amend the *Transport Administration Act 1988* and other Acts with respect to light rail services; and for other purposes. [Assented to 3 December 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Transport Administration Amendment (Light Rail) Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Transport Administration Act 1988 No 109

The *Transport Administration Act 1988* is amended as set out in Schedule 1.

4 Amendment of other Acts

Each Act specified in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendment of Transport Administration Act 1988

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

light rail services—see section 104M.

light rail system—see section 104N.

Transport Administration Corporation means the
Transport Administration Corporation constituted under
this Act.

[2] Section 36 References to functions of Director-General

Insert “or 37A or under Division 2A of Part 9” after “section 37”.

[3] Section 38 Functions of ensuring provision of appropriate passenger services

Omit “section 43” from section 38 (2).

Insert instead “section 104E”.

[4] Section 38 (2A)

Insert after section 38 (2):

(2A) This section extends to light rail services.

[5] Section 40 Delegation

Omit section 40 (3) (a).

[6] Section 43 Power of Director-General to contract

Omit the section.

[7] Section 44 Constitution of PTA

Omit "not more than 5 members" from section 44 (2) (b).
Insert instead "not more than 6 members".

[8] Section 44 (2) (b) (v)

Insert after section 44 (2) (b) (iv):

- (v) a representative of light rail system operators, and

[9] Section 70 Payment into State Rail Authority Fund

Omit "under section 97 or the regulations under section 99" from section 70 (c).

Insert instead "under the regulations under section 99, or under section 79A (or the regulations under section 79B) of the *Rail Safety Act 1993* in connection with railway services operated by the State Rail Authority (but only if proceedings or penalty notices for the offences were instituted or issued by that Authority or an employee of that Authority)".

[10] Section 74 Payment into State Transit Authority Fund

Omit "under the regulations under section 104" from section 74 (c).

Insert instead "under the regulations under section 104, or under the regulations under section 63 of the *Passenger Transport Act 1990* in connection with bus or ferry services operated by the State Transit Authority (but only if proceedings or penalty notices for the offences were instituted or issued by that Authority or an employee of that Authority)".

[11] Part 9, Division 2A (sections 104A–104V)

Insert after Division 2 of Part 9:

**Division 2A Miscellaneous provisions relating to
Director-General**

Subdivision 1 General provisions

104A Definition of “functions” of Director-General

In this Subdivision, *functions* of the Director-General means functions of the Director-General under Part 4, under an Act referred to in section 37 or 37A or under this Subdivision or Subdivision 2.

104B Exercise of functions through Transport Administration Corporation, joint ventures or other associations

- (1) A function of the Director-General may, if the Director-General so determines, be exercised:
 - (a) by the Transport Administration Corporation, or
 - (b) by the Director-General (or by the Transport Administration Corporation) in a partnership, joint venture or other association with other persons or bodies.
- (2) A function of the Director-General that is exercisable in relation to anything belonging to, or controlled by, the Director-General is also exercisable in relation to anything belonging to, or controlled by, the Transport Administration Corporation.

104C Exercise of functions in Director-General’s own capacity and on behalf of Crown

Nothing in this Division prevents the Director-General from exercising a function in his or her capacity as the Director-General and entering into contracts or doing other things on behalf of the Crown.

104D Transport Administration Corporation

- (1) There is established by this Act a body corporate with the corporate name of the Transport Administration Corporation.

- (2) The Corporation is a statutory body representing the Crown.
- (3) The Corporation is, for the purposes of the *Public Finance and Audit Act 1983*, the *Annual Reports (Departments) Act 1985* or any other prescribed Act, taken to be part of the Department of Transport.
- (4) The affairs of the Corporation are to be managed and controlled by the Director-General. Any act, matter or thing done in the name of, or on behalf of, the Corporation by the Director-General is taken to have been done by the Corporation.

104E Power of Director-General to contract

- (1) The Director-General may make or enter into contracts or arrangements with any person for the carrying out of works or the performance of services or the supply of goods or materials in connection with the exercise of the Director-General's functions.
- (2) Nothing in this section limits the operation of any provision of the *Passenger Transport Act 1990* or the *Rail Safety Act 1993*.

104F Sale, lease or other disposal of land

- (1) The Director-General may sell, lease or otherwise dispose of any of the Director-General's land.
- (2) The Director-General may transfer to the Transport Administration Corporation land (including an interest in land) vested in the Director-General.

104G Acquisition of land

- (1) The Director-General may, for the purpose of the exercise of the Director-General's functions, acquire land (including an interest in land) by agreement or compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991*.

-
- (2) The other purposes for which land may be acquired under subsection (1) include for the purposes of future sale, lease or disposal, that is, to enable the Director-General to exercise his or her functions in relation to land.
 - (3) The Director-General may not acquire land under this section by compulsory process without the approval of the owner if it is being acquired for the purpose of re-sale. However, the owner's approval is not required:
 - (a) if the land is acquired for the purpose of re-sale to the owner or operator of a light rail system or other transport facility, or
 - (b) if the land forms part of, or adjoins or lies in the vicinity of, other land acquired at the same time under this section for a purpose other than the purpose of re-sale.
 - (4) The Director-General may not give a proposed acquisition notice under the *Land Acquisition (Just Terms Compensation) Act 1991* in relation to an interest in land to which section 104R applies that is under, on or over a public road unless it has first given a copy of the proposed notice to the Minister for Roads.
 - (5) An acquisition of land under this section is not void merely because it is expressed to be for the purpose of exercising the functions of the Director-General or for the purposes of this Act.
 - (6) Nothing in this section is taken to mean that the Director-General cannot exercise functions in relation to land unless the Director-General first compulsorily acquires the land concerned.

104H Application of Public Works Act 1912

- (1) For the purposes of the *Public Works Act 1912*, any acquisition of land under section 104G is taken to be for an authorised work and the Director-General is, in relation to the authorised work, taken to be the Constructing Authority.

- (2) Part 3 of the *Public Works Act 1912* does not apply in respect of works constructed for the purposes for which the land was acquired.

104I Other functions concerning land

- (1) The Director-General may, with the consent of the owner of any land, exercise in relation to the land any function that the Director-General could so exercise if the Director-General were the owner of the land.
- (2) The Director-General may exercise in relation to any land in which the Director-General holds an interest any function that a private individual could so exercise if the private individual were the holder of the interest.

104J Annual reporting requirements

The annual report of the Department of Transport is to include:

- (a) a report of the activities of the Director-General during the reporting year with respect to passenger transport facilities (including light rail systems) and a statement of any such proposed activities for the following year, and
- (b) the short, medium and long term objectives of the Director-General with respect to passenger transport facilities (including light rail systems) and the strategies for achieving those objectives.

104K Regulations

- (1) The regulations may make provision for or with respect to passenger transport facilities (including light rail systems) provided in the exercise of the Director-General's functions.
- (2) In particular, the regulations may make provision for or with respect to:
 - (a) the terms and conditions on which passengers or other persons use those facilities, and

- (b) the use of and access to those facilities, and
- (c) the protection and preservation of those facilities, and
- (d) the security, safety and order of persons using those facilities.

Subdivision 2 Special provisions relating to light rail

104L Definitions

In this Subdivision:

develop a light rail system includes:

- (a) carry out development (within the meaning of the *Environmental Planning and Assessment Act 1979*) for the purposes of a light rail system, or
- (b) finance any such development, or
- (c) maintain any such development.

operate a light rail system means operate the system within the meaning of the *Rail Safety Act 1993*.

104M Light rail services

For the purposes of this Act, ***light rail services*** are railway passenger services provided by light rail vehicles, including passenger services declared by the regulations to be light rail services (whether described by reference to the class of vehicles providing the services or the rail or other system used to guide the vehicles providing the services).

104N Light rail system

- (1) For the purposes of this Act, a ***light rail system*** is a system for the provision of light rail services along a route declared under subsection (2), including tracks, catenaries, supports for tracks and catenaries, stops, access to stops, signalling and other control facilities, vehicles, vehicle depots and other facilities and equipment associated with the provision of those services.

- (2) The regulations may declare a route along a public street or through other land to be the route of a light rail system. A route may be so declared:
 - (a) whether or not a light rail service is operating along the route, and
 - (b) whether or not the State or an authority of the State owns or proposes to acquire the system providing the service.
- (3) A regulation may not declare a route along a public street to be the route of a light rail system unless the regulation is made on the recommendation of both the Minister administering this Act and the Minister administering the *Traffic Act 1909*.
- (4) A regulation may not declare a route through any park or bushland to be the route of a light rail system unless the regulation is made on the recommendation of both the Minister administering this Act and the Minister for the Environment. In this subsection:

bushland means land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation, being land that is zoned or reserved for public open space purposes under an environmental planning instrument.

park means an area of open space used for recreation (other than bushland), being an area that is vested in or under the control of a public or local authority.
- (5) Any dispute in connection with the making of a recommendation under subsection (3) or (4) may be determined by the Premier.

1040 Development and operation of light rail systems

- (1) The Director-General may develop light rail systems, or facilitate their development by other persons.
- (2) The Director-General may operate light rail systems, or facilitate their operation by other persons.

104P Part 5 of EPA Act to apply to development for light rail system

- (1) In this section:

development has the same meaning as in Part 4 of the EPA Act.

EPA Act means the *Environmental Planning and Assessment Act 1979*.

- (2) Development for the purposes of a light rail system:

(a) may be carried out without the necessity for development consent under Part 4 of the EPA Act, and

(b) may be so carried out even if the development would be prohibited, or would require development consent, in the absence of this section.

- (3) Development for the purposes of a light rail system is an activity within the meaning of Part 5 of the EPA Act and the Director-General is the proponent and a determining authority in relation to that activity for the purposes of that Part.

Note. By virtue of this subsection, the approval of the Minister administering the EPA Act is, if an EIS is prepared, required under Division 4 of Part 5 of that Act before the activity is carried out.

- (4) Development for the purposes of a light rail system includes anything that is incidental to the carrying out of any such development.

104Q Local government approvals not required for light rail system

- (1) This section applies to:

(a) the construction of a light rail system, including the erection of any buildings that are associated with the system or the demolition of any buildings for the purposes of constructing the system, and

- (b) anything done that is incidental to the erection or demolition of a building for the purposes of a light rail system, and
 - (c) the subdivision of land for the purposes of a light rail system.
- (2) The approval of the council of a local government area is not required under section 68 of the *Local Government Act 1993* or under subdivision legislation for anything to which this section applies.

- (3) In this section:

building and *erection* have the same meanings they have in the *Local Government Act 1993*.

subdivision legislation means Part 12 of the *Local Government Act 1919*, the *Strata Titles Act 1973*, the *Strata Titles (Leasehold) Act 1986* or the *Community Land Development Act 1989*.

104R Easements etc for light rail system

- (1) This section applies to:
 - (a) easements or rights of way under, on or over, land, or
 - (b) restrictions on the use of land,for the purposes of the development or operation of a light rail system.
- (2) The functions of the Director-General under Subdivision 1 in relation to land extend (without limitation) to any easements, rights of way or restrictions on use to which this section applies, including:
 - (a) easements without a dominant tenement, and
 - (b) easements for the support of a catenary from a building, structure or land.

-
- (3) Despite anything to the contrary in the *Land Acquisition (Just Terms Compensation) Act 1991*, compensation is not payable for the compulsory acquisition of an interest in land to which this section applies that is under, on or over a public road (within the meaning of the *Roads Act 1993*).
- (4) Despite anything to the contrary in the *Land Acquisition (Just Terms Compensation) Act 1991*, compensation is not payable for the compulsory acquisition of an interest in land to which this section applies that is an easement for support of a catenary from a building or structure or from any land (except compensation for actual damage done in the construction of the support for the catenary or caused by that support).

104S Exemption of light rail system from payment of rates and land tax

- (1) For the purpose of the application of the provisions of the following Acts relating to the payment of rates and taxes, land used or under construction for a light rail system is to be regarded as Crown land not leased for private purposes:
- (a) the *Local Government Act 1993*,
 - (b) the *Water Board (Corporatisation) Act 1994*,
 - (c) the *Hunter Water Board (Corporatisation) Act 1991*,
 - (d) the *Land Tax Management Act 1956*,
 - (e) any other Act prescribed by the regulations.
- (2) This section does not apply to land used or under construction for administrative offices, workshops and other maintenance facilities, vehicle depots or other purposes prescribed by the regulations.

- (3) The Minister may determine any dispute concerning the application of this section to any particular land.

104T Exemption from liability for stamp duty

The regulations may exempt any matter concerning the development or operation of a light rail system from liability for the payment of stamp duty under the *Stamp Duties Act 1920*.

104U Altering position of conduit for purposes of light rail system

- (1) The Director-General or a person authorised by the Director-General may serve a written notice on a person under this section if:
- (a) an alteration is required to be made in the position of a conduit owned by the person to facilitate the development or operation of a light rail system, and
 - (b) the alteration would not permanently damage the conduit or adversely affect its operation.
- (2) The notice:
- (a) must specify the work to be carried out, and
 - (b) must specify a reasonable time within which the work is to be carried out, and
 - (c) must include an undertaking by the owner or operator of the light rail system to pay the reasonable cost of carrying out the work (unless the Director-General has notified the owner of the conduit before it was installed that the installation would interfere with the operation of the light rail system).
- (3) If the work is not carried out as required by the notice, the Director-General, or a person authorised by the Director-General, may carry out the work in a manner that does not permanently damage the conduit or adversely affect its operation.

-
- (4) In this section, *conduit* means anything that is under, on or over a public road (or any other land on which no building or other structure is located) and is used for the conveyance of a substance, energy or signals.

104V Resolution of disputes concerning development of light rail

- (1) This section applies to the following disputes:
- (a) a dispute between the relevant Ministers about a recommendation under section 104N relating to the declaration of a route of a light rail system,
 - (b) a dispute between the Director-General and the Roads and Traffic Authority about any action of that Authority that may adversely affect the development of light rail systems and that is referred to relevant Ministers under section 261 of the *Roads Act 1993* or section 111 of this Act.
- (2) The annual report of the Department of Transport is to include a report of any dispute to which this section applies that is determined by the Premier.
- (3) In this section, a reference to the development of light rail systems is a reference to the planning and development of new or significant extensions to light rail systems, but not including activities associated with the construction or maintenance of light rail systems.

[12] Schedule 7 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

Transport Administration Amendment (Light Rail) Act 1996.

[13] Schedule 7, Part 4

Insert after Part 3:

**Part 4 Provisions consequent on enactment of
Transport Administration Amendment (Light
Rail) Act 1996**

63 Definitions

In this Part:

roads transfer order means the order under section 150 of the *Roads Act 1993*, published in the Gazette of 24 November 1995 at page 7988 for the transfer of certain public roads from the Sydney City Council to the Roads and Traffic Authority.

Ultimo/Pymont light rail roads authority agreement means the agreement made on 22 December 1995 between the Sydney City Council, the State Rail Authority of New South Wales and the Director-General of the Department of Transport relating to the Ultimo/Pymont Light Rail Transit System from Central Station, Sydney to Wattle Street, Pymont.

64 Termination of agreement

- (1) The Ultimo/Pymont light rail roads authority agreement is terminated by virtue of this clause and the parties to the agreement have no further obligations or rights under the agreement.
- (2) In particular, any indemnity under the agreement ceases on its termination, but without affecting any obligations actually incurred under the indemnity during the period the agreement was in force.
- (3) The consent of the Sydney City Council, as roads authority, to the roads transfer order is not affected by the termination of the agreement.

65 Revocation of roads transfer order

- (1) The roads transfer order is revoked by virtue of this clause.
- (2) On the revocation of the order, a further order is taken to have been made under section 150 of the *Roads Act 1993* transferring the public roads to which the revoked roads transfer order applied from the Roads and Traffic Authority to the Sydney City Council. The requirements of section 150 of that Act do not apply to the further order.
- (3) Any consent, approval, authorisation or other thing done by the Roads and Traffic Authority under the *Roads Act 1993* as the roads authority for those public roads and having any force or effect on the commencement of this clause:
 - (a) is not affected by subclause (1) or (2), and
 - (b) is taken to have been given or done in accordance with the *Roads Act 1993*, as amended by the *Transport Administration Amendment (Light Rail) Act 1996*.

66 Amendment of Roads (General) Regulation 1994

The *Roads (General) Regulation 1994* is amended by omitting clause 79A.

Note. The clause concerned declared the RTA to be the roads authority for a certain area in the vicinity of Hay Street between Elizabeth and Quay Streets.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Local Government Act 1993 No 30

Section 611 Annual charge on rails, pipes etc

Insert at the end of section 6 (6) (c):

, or

- (d) the owner or operator of a light rail system (within the meaning of the *Transport Administration Act 1988*), but only if the matter relates to the development or operation of that system and is not excluded by the regulations from the exemption conferred by this paragraph.

2.2 Motor Accidents Act 1988 No 102

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

light rail vehicle means a vehicle used on a light rail system within the meaning of the *Transport Administration Act 1988*, or any other light rail system prescribed by the regulations under this Act.

[2] Section 3 (1), definition of "motor vehicle"

Insert "(other than a light rail vehicle)" after "tramway".

[3] Section 12 Commencement and duration of third-party policy

Insert after section 12 (10):

- (11) A licensed insurer is on risk in respect of a light rail vehicle under a third-party policy relating to the vehicle only during the period for which the policy is issued.

2.3 Rail Safety Act 1993 No 50

[1] Section 9 Act binds Crown

Insert after section 9 (2):

- (3) If the Director-General is the owner or operator of a railway, the functions of the Director-General under this Act in relation to the ownership or operation of the railway are to be exercised by the Minister or a person authorised by the Minister.

[2] Section 24 Style of accreditation

Insert after section 24 (3):

- (4) It is a condition of any accreditation that a third-party policy under the *Motor Accidents Act 1988* is in force in respect of each light rail vehicle owned by the accredited person that is required to be insured under that Act.

[3] Sections 79A and 79B

Insert after section 79:

79A Offence of failure to pay fares on railway

- (1) In this section, *train* means a train operated by the State Rail Authority, a light rail vehicle operated on a light rail system (within the meaning of the *Transport Administration Act 1988*) by the operator of that system or any other train of a class prescribed by the regulations.
- (2) A person who does any of the following is guilty of an offence:
 - (a) without reasonable excuse, travels or attempts to travel on a train without previously having paid the fare,

- (b) travels or attempts to travel on a train without previously having paid the fare and fails, without reasonable excuse to pay the fare on demand made by an officer authorised in that regard by the operator of the train system,
- (c) knowingly and without reasonable excuse, fails to leave a train on arriving at the point to which he or she has paid the fare,
- (d) knowingly and without reasonable excuse, travels or attempts to travel on a train in a carriage of a class to which the person's ticket does not apply,
- (e) uses a travel pass to travel or attempt to travel on a train, knowing that he or she is not entitled to use the pass or that the pass is no longer valid.

Maximum penalty: 5 penalty units.

- (3) It is not a defence to a prosecution under subsection (2) (a) for a person to prove:

- (a) that the time taken or likely to have been taken in payment of the fare before travelling or attempting to travel on the train would or may have caused the person to have been unable to so travel or attempt to travel, or
- (b) that the person intended to pay the fare while travelling or on arriving at a particular place,

but it is a defence to such a prosecution if the person proves:

- (c) that it appeared to the person, after reasonable investigation, that no facilities were available at the station or stop at which the person got on or attempted to get on the train to enable him or her to pay the fare before getting on or attempting to get on the train, or

-
- (d) that the person:
 - (i) had arrived at that station or stop within such period of time before getting on or attempting to get on the train as would, in the circumstances ordinarily existing at that time of the day and on that day of the week, have enabled the person to have paid the fare before getting on or attempting to get on the train, and
 - (ii) diligently took all steps reasonably necessary to pay the fare, but that the person was unable, due to circumstances beyond his or her control, to pay the fare.

79B Offences relating to passengers or vehicles

- (1) In this section, *train* has the same meaning it has in section 79A.
- (2) The regulations may make provisions for or with respect to:
 - (a) the regulation or prohibition of eating, drinking or smoking in trains or in other public areas of a railway, and
 - (b) the conduct of passengers and drivers on trains or in other parts of a railway, and
 - (c) the powers and duties of drivers of trains and of authorised officers, and
 - (d) the authority of drivers of trains, and of authorised officers, to eject persons guilty of any contravention of a regulation, and
 - (e) the taking up or setting down of passengers or other matters incidental to the transport of passengers, and
 - (f) the carriage of passengers' luggage or other goods, and animals, on trains, and
 - (g) the regulation or prohibition of the carriage of passengers standing in or on any part of a train, and

- (h) the custody and return of property left in trains or in other parts of a railway, the payment of compensation for any such property and the disposal or sale of any such property not claimed and the time of any such disposal or sale, and
- (i) the exhibition in or on any train or other part of a railway of such notices in the public interest as the Director-General considers necessary, and
- (j) the erection and display of signs and notices for the guidance of the drivers of trains and the public, and
- (k) the sale of tickets and the conditions under which tickets must be sold, and
- (l) generally as to the regulation and control of trains, of their drivers and passengers, and of other parts of a railway.

2.4 Roads Act 1993 No 33

[1] Section 4A

Insert after section 4:

4A Notes in text

Notes in the text of this Act do not form part of this Act.

[2] Section 5 Right of passage along public road by members of the public

Insert after section 5 (1):

- (1A) The right conferred by this section extends to the right of passage of members of the public in a light rail or other railway vehicle.

[3] Section 64 RTA may exercise functions of roads authority with respect to certain roads

Insert at the end of the section:

Note. See Division 5 of Part 9 as to the exercise by the RTA of the functions of another roads authority in respect of certain actions undertaken on a public road for the purposes of, or incidental to, development or operation of a light rail system.

[4] Part 9, Division 5

Insert after Division 4:

Division 5 Light rail systems

144A Definitions

In this Division:

develop or *operate* a light rail system has the same meaning as in section 104L of the *Transport Administration Act 1988*.

Director-General means the Director-General of the Department of Transport.

light rail system has the same meaning as in the *Transport Administration Act 1988*.

144B Roads authority not to obstruct light rail system

- (1) A roads authority, in the exercise of any of its functions under this Act, must not, without the prior consent of the Director-General:
 - (a) carry out, or authorise the carrying out, of any work, or
 - (b) grant any consent or authorisation or issue any direction, or
 - (c) take any other action (including disposing of or granting any interest in land),

that prevents or otherwise obstructs the passage of light rail vehicles along the route of a light rail system declared under the *Transport Administration Act 1988* or the carrying out or use of any work approved under section 144C.

- (2) The Director-General must, before granting a consent under this section consult with:
 - (a) the RTA, whether or not the RTA is the roads authority concerned, and
 - (b) the operator of the light rail system, if the Director-General is not the operator of the system.
- (3) A consent by the Director-General:
 - (a) may be granted on the Director-General's own initiative or on the application of any person, and
 - (b) may be granted generally or for a particular case, and
 - (c) may be granted for specific matters or classes of matters, and
 - (d) may be granted on such conditions as the Director-General thinks fit.
- (4) Nothing in this section prevents the temporary closure of any public street or the taking of other action that is authorised by section 23 of the *Traffic Act 1909*.

144C Consent for works and other action relating to light rail system

- (1) This section applies to and in respect of the carrying out or use of works or the taking of other action in connection with the development or operation of a light rail system that cannot be carried out, used or undertaken without the prior consent or approval of a roads authority under this Act.
- (2) In the case of work or other action to which this section applies, the consent or approval of the relevant roads authority (if that roads authority is not the RTA) is not

required but the consent or approval of the RTA must be obtained before the work is carried out or used or the other action undertaken. The provisions of this Act apply to the granting of any such consent or approval as if the relevant roads authority were the RTA.

- (3) The RTA is not to revoke any consent or approval for any work or other action to which this section applies unless it has first consulted the Director-General.

144D Directions and other functions relating to light rail systems

- (1) This section applies to and in respect of:
- (a) the giving of any direction or the imposition of any requirement by, or
 - (b) the exercise of any other function of,
- a roads authority under this Act in connection with the development or operation of a light rail system.
- (2) A direction, requirement or function to which this section applies is, if given, made or exercised under this Act, to be given, made or exercised by the RTA only, whether or not it is the relevant roads authority in the particular circumstances.

144E Division prevails

This Division has effect despite any other provision of this Act.

2.5 Traffic Act 1909 No 5

[1] Section 2 Definitions

Insert in alphabetical order in section 2 (1):

Light rail vehicle means a vehicle used on a light rail system within the meaning of the *Transport Administration Act 1988*, or any other light rail system prescribed by the regulations under this Act.

[2] Section 2 (1), definition of "Motor vehicle"

Insert "(other than a light rail vehicle)" after "tramway".

[3] Section 2 (1), definition of "Vehicle"

Omit the definition. Insert instead:

Vehicle means any description of vehicle on wheels (including a light rail vehicle) but not including other vehicles used on railways or tramways.

[4] Section 5B Motor vehicles to be registered

Insert after section 5B (1):

(1A) A light rail vehicle is exempt from registration.

[5] Section 6 Driver must be licensed, and vehicle numbered

Insert after section 6 (1A):

(2) Subsection (1) does not apply to or in respect of a light rail vehicle.

[6] Section 25 Removal of dangers and obstructions to traffic

Insert at the end of paragraph (b) in the definition of *appropriate roads authority* in section 25 (3):

, and

(c) in relation to that part of a public street used for the passage of light rail vehicles or as an access to light rail vehicles—the Director-General of the Department of Transport and the operator of the light rail system.

[7] Section 26 Removal of unattended motor vehicles from clearways, transit lanes and other places

Insert after section 26 (1):

- (1A) An authorised officer may cause an unattended motor vehicle unlawfully standing on any place to be removed in accordance with this section if, in the opinion of the officer, it is obstructing the passage of a light rail vehicle.

[8] Section 26 (2) (a)

Insert “, or an obstruction to the passage of a light rail vehicle” after “undue traffic congestion”.

[9] Section 26 (8), definition of “authorised officer”

Insert after paragraph (b):

- (b1) a person, or a person of a class, who is authorised by the Director-General of the Department of Transport to exercise the functions of an authorised officer under this section, but only in respect of the removal of unattended vehicles obstructing the passage of light rail vehicles, or

[Minister's second reading speech made in—

Legislative Assembly on 13 November 1996

Legislative Council on 28 November 1996]

