Parliamentary Committees

Surat Basin Rail (Infrastructure Development and Management) Bill 2012

Report No. 9

State Development, Infrastructure and Industry Committee

October 2012

State Development, Infrastructure and Industry Committee

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Acknowledgements

The committee thanks those who briefed the committee, gave evidence and participated in its inquiry. In particular, the committee acknowledges the assistance provided by the Department of State Development, Infrastructure and Planning.

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Abbreviations

PLA	*Property Law Act 1974*
QCAT	Queensland Civil and Administrative Tribunal
SBR	Surat Basin Rail
SBRJV	Surat Basin Rail Joint Venture
SBR Pty Ltd	Surat Basin Rail Proprietary Limited
SDPWO Act	*State Development and Public Works Organisation Act 1971*
TIA	*Transport Infrastructure Act 1994*

Chair's foreword

This report presents a summary of the committee's examination of the Surat Basin Rail (Infrastructure Development and Management) Bill 2012.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles to the legislation, including whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

On behalf of the committee, I thank the officials from the Department of State Development, Infrastructure and Planning who briefed the committee, the committee's secretariat and the Technical Scrutiny of Legislation Secretariat.

I commend the report to the House.

Ted Malone MP
Chair

26 October 2012

Recommendations

1 Introduction

1.1 Role of the committee

The State Development, Infrastructure and Industry Committee (the committee) was established by resolution of the Legislative Assembly on 18 May 2012 and consists of government and non-government members.

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

The Surat Basin Rail (Infrastructure Development and Management) Bill 2012 (the Bill) was referred to the committee on 14 September 2012. The committee is required to report to the Legislative Assembly by 29 October 2012.

1.2 The referral

On 14 September 2012, the Surat Basin Rail (Infrastructure Development and Management) Bill 2012 (the Bill) was referred to the committee for examination and report. Pursuant to Standing Order 136(2), the Committee of the Legislative Assembly fixed the time for report on the Bill as 29 October 2012.

1.3 The committee's inquiry process

On 18 September 2012, the committee called for written submissions on the Bill to be provided by 3 October 2012. The committee received four submissions (see Appendix A).

The committee received a written briefing from the Department of State Development, Infrastructure and Planning (the department) on 28 September 2012 and was briefed by officers of the department at a private briefing on 5 October 2012.

The committee received oral evidence at a public hearing held at Parliament House on 11 October 2012 (see Appendix B).

The written submissions and transcripts of the departmental briefing and public hearing are published on the committee's webpage at www.parliament.qld.gov.au/SDIIC.

1.4 Prior bill

The Surat Basin Rail (Long-term Lease) Bill 2011 was introduced in the 53rd Parliament and was referred to the former Industry, Education, Training and Industrial Relations Committee for examination. The committee held a private departmental briefing and called for submissions.[1] On 19 February 2012, before the committee had reported, the bill lapsed upon dissolution of the House.

The department notes that the objectives of the Surat Basin Rail (Infrastructure Development and Management) Bill (the Bill) are consistent with those of the lapsed bill, with the current Bill containing provisions from the lapsed bill in addition to new provisions.[2]

[1] One submission was received from the Western Downs Regional Council.

[2] David Edwards, Director-General, Department of State Development, Infrastructure and Planning, Correspondence, 28 September 2012.

1.5 Background to the Bill

In his introductory speech on the Bill to the House, the Deputy Premier and Minister for State Development, Infrastructure and Planning stated:[3]

> The Surat Basin Rail project proposes to construct the 214 kilometre southern missing link line between the towns of Wandoan and Banana. Development of the $1 billion plus railway will open up the estimated four billion tonnes of coal reserves in the Surat Basin for large scale open-cut mining and for subsequent export through the port of Gladstone. This rail project is the first of its kind in Queensland and will set the scene for future private rail developments.
>
> In 2006 an exclusive mandate was granted for the Surat Basin Rail project to a private consortium known as the Surat Basin Rail Joint Venture. Under the terms of the exclusive mandate, the railway must be an open-access multifreight rail system developed at no cost to the state and no risk to the state. The exclusive manadate also obliges the state to acquire the rail corridor at the joint venture's cost. After the project achieves financial close, the state will provide the joint venture with a licence for construction, followed by a lease for the long-term operation of the railway.
>
> The state and the joint venture are currently negotiating a range of concession agreements for the project including a development agreement, an operating agreement and a lease. These agreements will clearly establish the rights and obligations of each party during the construction period and the long-term operation of the railway.
>
> …
>
> As the proponent is an investor rather than a railway manager, the Surat Basin Rail project does not fit easily within the existing legislative and regulatory frameworks. …

1.6 Policy objective of the Bill

The policy objective of the Bill "*is to create a specific legislative framework for the development and management of the Surat Basin Rail (SBR) which will complement existing statutory arrangements for rail infrastructure in Queensland and protect the State's interests under the concession agreements which will govern the construction and long-term operation of the SBR*".[4]

With the aim of achieving the policy objective, the bill proposes to:[5]

- enable the SBR Lease to be exempt from section 121 and Part 8, Division 3 of the *Property Law Act 1974* and section 67(3)(a) of the *Land Title Act 1994*, if required (see the heading in this report titled "**Exempting the SBR lease from provisions of the Property Law Act and the Land Title Act**" for information about this proposal)
- enable the Coordinator-General to grant access to land for purposes related to the SBR project, if required ("**Access to undertake SBR works and investigations**")
- provide for relevant provisions of the *Transport Infrastructure Act 1994*, with appropriate amendments, to apply to the SBR and the SBR corridor ("**Application of the Transport Infrastructure Act 1994**")

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[3] Hon JW Seeney MP, Deputy Premier and Minister for State Development, Infrastructure and Planning, Record of Proceedings, Brisbane, 14 September 2012, pp 2,078-2,079.

[4] Surat Basin Rail (Infrastructure Development and Management) Bill 2012, Explanatory Notes, p 1.

[5] Explanatory Notes, p 2.

- enable the construction, maintenance and operation of watercourse crossings over non-tidal boundary watercourses traversed by the SBR corridor ("**Watercourse crossings over non-tidal boundary watercourses**")
- provide for the ability to designate land surrounding the SBR corridor as a transport noise corridor under the *Building Act 1975*, if required ("**Application of the Building Act 1975 (Transport Noise Corridor)**")
- enable the lessee of the SBR Lease to grant easements across the SBR corridor to adjoining landowners for the term of the SBR Lease ("**Grant of easements to adjoining landowners by SBR corridor lessee**")
- enable severance of the rail infrastructure from the SBR corridor, if required ("**Severence of SBR infrastructure from SBR corridor**").

The Department of State Development, Infrastructure and Planning provided the committee with a summary of the key policy proposals within the components of the Bill.[6] This is presented in Appendix C.

[6] David Edwards, Director-General, Department of State Development, Infrastructure and Planning, Correspondence, 28 September 2012.

2 Examination of the Bill

2.1 Should the Bill be passed?

Standing Order 132(1)(a) required the committee to determine whether to recommend that the Bill be passed. After examining the Bill, and considering issues raised in submissions and evidence provided at the private briefing and public hearing, the committee determined that the Bill should be passed.

Recommendation 1

The committee recommends that the Surat Basin Rail (Infrastructure Development and Management) Bill 2012 be passed.

2.2 Government consultation on the bill

During its preparation of the Bill, the department consulted with SBR Pty Ltd and relevant State agencies.[7] The department did not undertake community consultation during the preparation of the Bill because it is of the view that "*there are no broader ramifications for the community*" arising from the Bill.[8] Community consultation has, however, been undertaken by the State at previous stages of the project including:[9]

- the Coordinator-General's assessment of the Environmental Impact Statement for the SBR project under Part 4 of the *State Development and Public Works Organisation Act 1971* (SDPWO Act);
- the proposal to declare the Surat Basin Infrastructure Corridor State Development Area under s 77 of the SDPWO Act; and
- the issuing of Notices of Intention to Resume to acquire the SBR corridor under s 82 of the SDPWO Act.

2.3 Policy issues

The committee considered the key policy proposals in the Bill. These are outlined in the sections below.

2.4 Exempting the SBR lease from provisions of the Property Law Act and the Land Title Act

The railway lease (the SBR lease) is a lease that is granted by the State or the Coordinator-General over the Surat Basin rail corridor land, or a part of the land, and is primarily for the purpose of constructing or operating the railway (Schedule to the Bill).

Clause 8, in Part 2 of the Bill, enables the Minister to declare the SBR lease to be an exempt lease. If such a declaration is made, the following provisions do not apply to the SBR lease (cl 9):

- section 121 and Part 8, Division 3 of the *Property Law Act 1974*; and
- section 67(3)(a) of the *Land Title Act 1994*.

[7] Surat Basin Rail (Infrastructure Development and Management) Bill 2012, Explanatory Notes, p 13.

[8] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012.

[9] Surat Basin Rail (Infrastructure Development and Management) Bill 2012, Explanatory Notes, p 13.

The policy objective of Part 2 is to enable the concession agreements to codify the rights of the parties.[10]

Section 121 of the *Property Law Act 1974* restricts a lessor's ability to withhold consent in instances such as a proposed assignment of the lease. Part 8, Division 3 of the *Property Law Act 1974* deals with relief from forfeiture. The Queensland Government intends that the concession agreements will govern the circumstances in which the lease may be assigned, and the rights of the parties in relation to default and termination. This was considered the most appropriate arrangement "[g]*iven the nature of the project and the length of the SBR Lease*".[11]

Section 67(3)(a) of the *Land Title Act 1994* prohibits the amending a lease to increase or decrease the area leased. If, as is enabled by cll 8 and 9 of the Bill, s 67(3)(a) of the *Land Title Act 1994* does not apply to the SBR lease, it will enable the boundaries of the SBR lease to be amended, for example, to facilitate a second railway line or to realign the railway. Without the exemption from s 67(3)(a) of the *Land Title Act 1994*, the parties would have to negotiate and enter into a new lease if the area leased were to be increased or decreased. It is expected that the proposed exemption "*will enable the State to manage administration of the railway lease in an efficient and cost effective manner*".[12]

In its submission to the committee, AgForce expressed its concern about the uncertainty that the exemption from s 67(3)(a) of the *Land Title Act 1994* will create for landowners adjoining the railway corridor. Creevey Russell Lawyers, on behalf of six landholders affected by the SBR, stated in its submission:

> The intended exemption has the potential to significantly change the location and intensity of a disturbance along the rail corridor, without requisite notification to adjoining landholders. Presumably, once the easement is acquired, the landholder will not have any further recourse to claim further compensation or damages for any amendment or increase to the intensity of activities.
>
> Accordingly, landholders will have to assess compensation on the basis that the line can be duplicated or realigned without any further assessment of compensation. This places landholders at an immediate disadvantage. ...

In its response to Agforce's submission, the department stated that the exemption of the railway lease from the *Land Title Act 1994* will only impact on the SBR lease and the parties to it (i.e. the Coordinator-General and SBR Pty Ltd). The department emphasised that the exemption will not impact on the rights of adjacent landowners. It confirmed that "[a]*ny acquisition process to acquire further land for the rail corridor will need to follow the usual statutory processes*".[13]

Committee's position

The committee acknowledges the concerns expressed by AgForce and by Creevey Russell Lawyers but accepts the department's assurances relating to Part 2 of the Bill.

2.5 Access to undertake SBR works and investigations

Part 3 of the Bill sets out who may enter the SBR corridor land and land adjacent to the SBR corridor land to carry out railway works and/or investigate the land (cll 10 – 25). It proposes to enable landowners or occupiers to claim compensation or require works in restitution (cll 26, 27). Similar statutory powers to those proposed to be granted to the Coordinator-General are provided to

[10] Surat Basin Rail (Infrastructure Development and Management) Bill 2012, Explanatory Notes, pp 2, 16.

[11] Surat Basin Rail (Infrastructure Development and Management) Bill 2012, Explanatory Notes, p 3.

[12] Surat Basin Rail (Infrastructure Development and Management) Bill 2012, Explanatory Notes, p 16.

[13] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012. As the submission from Creevey Russell Lawyers was a late submission, the department did not have an opportunity to provide a response to it.

railway managers under the *Transport Infrastructure Act 1994* and to the Coordinator-General under the *State Development and Public Works Organisation Act 1971.*[14]

In its submission to the committee, and at the public hearing, AgForce raised a number of issues of concern for landowners and occupiers relating to Part 3 of the Bill, including:

- the information to be given to landowners and occupiers about works and investigations to be undertaken on their land (AgForce is of the view that detailed information, including maps, should be provided to landowners and occupiers to enable them to make claims for compensation and to allow for adequate consultation to occur);
- the placement and removal of permanent structures (AgForce believes that any permanent structure constructed on land adjacent to the SBR corridor land for carrying out railway works that is no longer required should have to be removed and the land restored to the same condition as it was prior to construction, unless agreement has been reached with the landowner or occupier that the structure can remain);
- the impact on a landowner's or occupier's liability if chemicals or other substances are brought onto the land by a third party (AgForce is concerned, for example, that a third party's actions may make the landowner or occupier in breach of a statement signed under a National Vendor Declaration); and
- the length of notice required before a third party enters the landowner's or occupier's land (AgForce considers that seven days notice in cl 24 is insufficient).

In its submission to the committee, Creevey Russell Lawyers suggest that the November 2010 *Land Access Code*, prepared by the former Department of Employment, Economic Development and Innovation, provides a good example of "*the development of mutually acceptable terms of access between resource companies and private landholders*". Creevey Russell Lawyers considers that the Bill should incorporate "*the timeframes and conditions of initial entry as established under the Land Access Code*".

The committee acknowledges the department's position that it "*has given due consideration to the statutory access regime to ensure the Coordinator-General can exercise an appropriate level of control over the powers given to* [SBR Pty Ltd] *or its railway manager to access private land under an authority*" and that it has "*given due consideration to the need for appropriate protections to be provided to landowners and occupiers in relation to the exercise of statutory powers, whether by the Coordinator-General,* [SBR Pty Ltd] *or a railway manager*" but considers that there may be a means by which Creevey Russell Lawyers' and AgForce's concerns about Part 3 of the Bill can be addressed.

Committee's position

The committee considers that it could be beneficial for the affected landowners and occupiers and SBR Pty Ltd to develop a Memorandum of Understanding to address concerns arising from the operation of Part 3 of the Bill. The Land Access Code could provide an example for the Memorandum of Understanding of the type of issues that may be included, and a means of addressing them.

Recommendation 2

The committee suggests that the Minister facilitate the development of a Memorandum of Understanding between affected landholders and occupiers (or their representatives) and Surat Basin Rail Pty Ltd to address concerns arising from Part 3 of the Surat Basin Rail

[14] David Edwards, Director-General, Department of State Development, Infrastructure and Planning, Correspondence, 28 September 2012.

(Infrastructure Development and Management) Bill 2012.

A particular concern expressed by AgForce about Part 3 of the Bill related to consultation. Agforce is of the view that "*true and appropriate consultation is essential*".[15]

The committee notes that cl 12 of the Bill provides that an applicant for a works authority or an investigation authority must consult with the owner or occupier of the land about the proposed entry before applying for the authority and that details of the applicant's consultation with the owner or occupier must be stated in the application.

Committee's position

The committee is of the view that, to ensure thorough consultation occurs, clauses 14 and 15 should be amended so that the Coordinator-General may only grant a works authority or an investigation authority if satisfied that the applicant made reasonable efforts to consult with the owner or occupier of the land.

Recommendation 3

The committee recommends that clauses 14 and 15 of the Surat Basin Rail (Infrastructure Development and Management) Bill 2012 be amended so that the Coordinator-General may only grant a works authority or an investigation authority if satisfied that the applicant made reasonable efforts to consult with the owner or occupier of the land.

AgForce also raised concerns about the compensation provisions in the Bill (cll 26 and 27). Amongst its concerns was the cost for landowners and occupiers of the matter being determined in the Land Court if agreement cannot be reached. A similar concern was expressed by Creevey Russell Lawyers.

Committee's position

The committee recognises AgForce's and Creevey Russell Lawyers' concerns, however it believes that the the availability of alternative dispute resolution processes within the Land Court adequately address these concerns.

Clause 20 of the Bill empowers the Coordintor-General, or an associated person[16] of the Coordinator-General authorised in writing by the Coordinator-General, to enter the SBR corridor land and land adjacent to that land for carrying out railway works.

In its submission to the committee, SBR Pty Ltd submitted that the power given to the Coordinator-General under cl 20, so far as it relates to the rail corridor land, should be limited so that it cannot be exercised while there is a railway licence or a railway lease. SBR Pty Ltd suggested this amendment because it is concerned that the ability of the Coordinator-General to unilaterally exercise the power under cl 20 during the term of the concession agreements will create financing issues.

Committee's position

The committee notes the department's advice that the powers given to the Coordinator-General in cl 20 are consistent with the powers the Coordinator-General may exercise under s 136 of the *State*

[15] Agforce, Submission, p 2.

[16] 'Associated person' is defined in cl 10. It is, for example, an agent of, or contractor for, the Coordinator-General.

Development and Public Works Organisation Act 1971.[17] The committee is of the view that the provision should remain as is, but that the department should monitor its application, with a formal review of proposed Act to occur within five years of the commencement of the Act.

Recommendation 4

The committee recommends that the Bill include a provision requiring a review of the proposed Act within five years of its commencement.

Clause 22 of the Bill enables the Coordinator-General or an associated person to enter land to investigate the land's potential suitability for an expansion or realignment of the SBR corridor land. Under the provision, the Coordinator-General or an associated person is able to do any of the following:

- do anything on the land;
- bring anything onto the land
- temporarily leave machinery, equipment or other items on the land.

In its submission to the committee, Creevey Russell Lawyers expressed its concern about the breadth of this clause. It considered that the scope of cl 22 should be better defined and that a timeframe should be set for cll 20 and 22.

Committee's position

The committee is of the view that the operation of cl 22 should be monitored by the department, with a formal review of the proposed Act to occur within five years of the commencement of the Act.

2.6 Application of the Transport Infrastructure Act 1994

As the SBR lease will be a freehold lease issued under the *Land Title Act 1994* rather than a lease issued under the *Transport Infrastructure Act 1994* (TIA), there was some uncertainty as to the applicability of certain provisions of the TIA.[18] Thus the Bill proposes that Chapters 7and 16 of the TIA will not apply to the SBR, the SBR corridor land, or railway works or investigations carried out under the proposed Act (cl 58). In Parts 4 – 7 of the Bill, relevant provisions from Chapters 7 and 16 of the TIA are reproduced, with the necessary changes, to apply to the SBR and SBR corridor land.[19]

The Explanatory Notes (p 6) state that "[T]*he amendments to the TIA provisions are necessary to provide for the private nature of the project over the concession period and the lease arrangements for the project. Under the TIA, railway managers hold the lease interest in the rail corridor and the accreditation for railway operations relating to the railway. In contrast, the SBR Lease will be granted to the SBRJV, who is not a railway manager, and a separate person will hold the accreditation for railway operations for the SBR.*"

Clause 34 of the Bill deals with the impact of change of management of a local government road on the railway. A local government must apply to the Coordinator-General to obtain the Coordinator-

[17] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012.

[18] Surat Basin Rail (Infrastructure Development and Management) Bill 2012, Explanatory Notes, p 5.

[19] David Edwards, Director-General, Department of State Development, Infrastructure and Planning, Correspondence, 28 September 2012; Surat Basin Rail (Infrastructure Development and Management) Bill 2012, Explanatory Notes, p 5.

General's written approval to make a change to the management of a local government road that, if made:

- would require works to be carried out on the railway; or
- would have a significant adverse impact on the safety and operational integrity of the railway.

SBR Pty Ltd submitted that cl 34 should be amended so that:

- the Coordinator-General must consult with the railway licensee or railway lessee and the railway manager before making any decision to refuse or approve an application under cl 34; and
- a failure by the Coordinator-General to respond to a local government application within the required timeframe under cl 34(4) is deemed to be a refusal of the application.

SBR Pty Ltd contends that these amendments are warranted given the significance of the possible impacts on the railway, SBR Pty Ltd's ownership of the infrastructure, and the legislative safety obligations of SBR Pty Ltd's contractors.

The department holds the view that the proposed amendments to cl 34 should not be accepted because they "*would take away local governments' rights in relation to applications to the Coordintor-General under the clause and would mean local governments' rights would be different for railways regulated under TIA and the SBR*".[20] Clause 34 is consistent with s 258A of the TIA.

Committee's position

The committee accepts the department's position that the proposed amendments should not be accepted.

Part 5, Division 2 of the Bill (cll 44 – 46) provides for works near the railway. Clauses 44 and 45 replicate, with some minor amendments, s 168 of the TIA.

SBR Pty Ltd submits that cl 44(1) and (2) should be amended so that they only apply to land near, but not including, the SBR corridor land (with consequential changes to cll 45 and 46). SBR Pty Ltd is concerned about the safety obligations of its contractors if the Coordinator-General or the Queensland Civil and Administrative Tribunal are able to permit third parties to access the rail corridor and/or carry out works on the SBR corridor without the approval of SBR Pty Ltd, and it is concerned about the possible impact of that on the project's bankability. In addition, it is worried that cll 44 and 45 overlap with cl 50 and thus, for example, a railway manager could refuse to approve an interference with the railway under cl 50, but the Coordinator-General could approve the same works under cl 44.

The department recommends that cll 44 – 46 not be amended in the way suggested by SBR Pty Ltd. With respect to SBR's concerns, the department stated that "*the object of the transposed TIA provisions is to ensure the SBR and rail corridor is regulated in a manner consistent with other railways in Queensland*"[21] and that if the Bill were to be amended as sought by SBR Pty Ltd, it "*would limit the capacity of the Coordinator-General to approve works which cross the corridor (such as overhead electricity transmission lines or buried pipelines)*". With respect to the apparent

[20] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012.

[21] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012.

inconsistency between cll 44 – 45 and cl 50, the department stated that if there is such an overlap, it "*also exists between s 168 and s 255 of the TIA*".[22]

Committee's position

The committee considers that the apparent overlap between cll 44 – 46 and cl 50 should be resolved.

Recommendation 5

The committee recommends that the apparent inconsistency between clauses 44 – 46 and clause 50 of the Surat Basin Rail (Infrastructure Development and Management) Bill 2012 be resolved.

At the committee's public hearing on Bill, SBR Pty Ltd indicated that SBR Pty Ltd would be satisfied if the Coordinator-General were to consult with SBR Pty Ltd and the rail infrastructure manager before allowing persons onto the rail corridor pursuant to cl 44.[23]

While the department considers that such a statutory obligation is not necessary, it suggested that if the committee desires such an obligation to be put into the Bill, it should be modelled on cl 33(4).

Committee's position

The committee considers that it would be beneficial to amend cl 44 to require the Coordinator-General to consult with the railway manager and railway licensee or railway lessee prior to approving the carrying out of works near the railway if the works threaten, or are likely to threaten, the railway's safety or operational integrity.

Recommendation 6

The committee recommends that cl 44 be amended to include a subsection along the lines of cl 33(4).

Clause 53 deals with altering materials or railway works. It is similar to s 488 of the TIA.

SBR Pty Ltd submits that cl 53 should be amended so that the Coordinator-General may only be the relevant person if there is no railway manager. SBR Pty Ltd is of the view that it is not appropriate for the Coordinator-General to have power to authorise third parties to dump waste or other materials on the SBR corridor land, which will be leased or licensed to SBR Pty Ltd. SBR Pty Ltd is particularly concerned that such an authorisation may impact on its contractors' legislative safety obligations.

The department states that the proposed amendments should not be accepted because if they were, it would mean that the SBR would be regulated differently to other railways in Queensland. It would also limit the Coordintor-General's ability to deal with land owned by the Coordinator-General.

Committee's position

The committee accepts the department's position that the proposed amendments should not be accepted.

[22] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012.

[23] Public Hearing – Inquiry into the Surat Basin Rail (Infrastructure Development and Management) Bill, transcript, p 3.

Clauses 60 and 61 replicate, with minor amendments, ss 485 and 485A of the TIA.

SBR Pty Ltd submitted that clauses 60 and 61 should be amended so that in each case:

- the Coordinator-General or QCAT is obliged to invite, accept and consider submissions by the original decision maker when carrying out a review under cll 60 and 61; and
- the original decision maker has a right to appeal the outcome of the review in addition to the original applicant.

In its response to SBR Pty Ltd's submission, the department stated that the proposed amendments to the review process should not be accepted. The department stated that "[t]*he review procedure has been replicated in the Bill to ensure that the actions of a railway manager for the SBR are regulated in a manner consistent with trailway manager's actions for other railways in Queensland*". Thus, if the proposed amendments were to be accepted, it would means that "*the railway manager's actions for the SBR would be regulated in a manner inconsistent with rail manager's action for other railways in Queensland*".[24]

Committee's position

The committee accepts the department's position that the amendments proposed by SBR not be accepted. The committee would, however, like the department to monitor these provision to determine whether a change is justified in the future, with a formal review of the proposed Act to occur within five years of the commencement of the Act.

2.7 Watercourse crossings over non-tidal boundary watercourses

Part 4, Division 3 of the Bill (cll 38 – 41) proposes to enable "*the construction, maintenance and operation of watercourse crossings over non-tidal boundary watercourses traversed by the SBR corridor*".[25]

The department notes that cll 38 and 40 are consistent with ss 167 and 487 of the TIA respectively and that the provisions were inserted in the Bill "*to give the Coordinator-General sufficient powers to regulate the SBR in a manner consistent with other railways in Queensland*".[26]

AgForce and Creevey Russell Lawyers are concerned that the draft legislation does not require the Coordinator-General or the railway manager to consult with adjacent landowners or occupiers before diverting or constructing watercourses (cl 38). AgForce believes that "*it is essential that both the railway manager and the Coordinator-General consult thoughly and agreement must be reached prior to any water being diverted*".

Committee's position

The committee holds the view that the impact on adjacent landowners and occupiers ought to be taken into account before a watercourse is diverted or constructed.

Recommendation 7

The committee recommends that cl 38 of the Surat Basin Rail (Infrastructure Development

[24] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012.

[25] Surat Basin Rail (Infrastructure Development and Management) Bill 2012, Explanatory Notes, p 6.

[26] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012.

and Management) Bill 2012 be amended to place the Coordinator-General under a duty to consider the impact that the diversion or construction of a watercourse would have on adjacent landowners and occupiers.

Pursuant to cl 40 of the Bill, an owner may be held liable to pay the Coordinator-General the costs incurred because of the exercise of the Coordinator-General's powers to enter land and take any necessary action to reduce or prevent the collection of water that has collected and obstructs, or is likely to collect and obstruct, traffic on the railway.

Agforce believes that it is not appropriate that landowners should be liable for water that has collected and obstructed, or is likely to collect and obstruct, traffic on the railway if the water collected, or was likely to collect, as a result of action authorised under an Act (cl 40(6)(a)). Creevey Russell Lawyers believes that the clause "*places an extraordinary and unjustified burden upon landholders adjoining the* [SBR corridor land]". Creevey Russell Lawyers is of the view that a provision should be inserted in cl 40 providing that compensation must be paid to the landholder for disturbance and loss (including loss of access to water or proprietary water rights) if action is taken on adjoining land.

The department noted the matters raised by AgForce in relation to the liability of landowners or occupiers under cl 40 and was of the view that "*the Coordinator-General would consider such matters when exercising powers under clause 40 of the Bill. In particular, the Department considers that the Coordinator-General would take into account whether any water had collected on the SBR as a result of the diversion of a watercourse by a railway manager or actions of the land owner when deciding whether to require a land owner to take action to reduce or prevent the water from collecting*".[27]

Committee's position

While the committee has concerns about cl 40, it acknowledges that cl 40 replicates a provision in the TIA. The committee considers that it would be beneficial to review the TIA when the proposed Act is reviewed, with a view to determining how the replicated provisions, such as cl 40, have worked in the different environment of a privately owned railway .

Recommendation 8

The committee recommends that the *Transport Infrastructure Act 1994* be reviewed at the same time as the proposed Surat Basin Rail (Infrastructure Development and Management) Act.

In its submission to the committee, SBR Pty Ltd submitted that cl 40 should be amended so that a new subsection is included which interprets references to the Coordinator-General to include appropriately accredited railway managers in the same manner as s 487(8) of the TIA. SBR Pty Ltd stated, "*It seems appropriate that appropriately accredited railway managers for [SBR Pty Ltd's] railway should have the same rights to carry out works to prevent water obstruction as railway managers under the TIA*".[28]

[27] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012.

[28] Surat Basin Rail Pty Ltd, Submission, p 6.

The department is of the view that the proposed amendment should not be accepted. The department noted that "*the Coordinator-General may authorise other persons to act under clause 40 if considered necessary, which may include for emergency purposes. These persons may include a railway manager for the SBR*".[29]

Committee's position

The committee accepts the department's position that the proposed amendment by SBR Pty Ltd should not be accepted.

2.8 Application of the Building Act 1975 (Transport Noise Corridor)

It is proposed that certain provisions of the *Building Act 1975* will apply to the SBR corridor land and land adjoining it (cl 55). This will enable the Coordinator-General to designate land near the SBR corridor land as a transport noise corridor. If it is designated as such, the Explantory Notes (p 35) state that "*higher noise mitigation standards* [will] *apply to the construction and alteration of habitable rooms in residential buidings within the designated area*". The application of the relevant provisions of the *Building Act 1975* "*will enable the Surat Basin rail corridor land to be regulated in a manner consistent with other statutory arrangements for rail corridors in Queensland*".

The committee did not receive any submissions with respect to this proposal.

Committee position

The committee does not have any issues with this policy proposal.

2.9 Grant of easements to adjoining landowners by SBR corridor lessee

The Bill proposes that the SBR lessee may grant to a lot that adjoins the SBR corridor land an easement that burdens the SBR lease, with the easement ending when the SBR lease ends.

Committee position

The committee is satisfied that cl 57 can be used to address Agforce's concerns in relation to the ability of landowners and occupiers to cross SBR corridor land.

2.10 Severance of SBR infrastructure from SBR corridor

The bill (cl 59) proposes that a regulation may declare that rail transport infrastructure stated in the regulation is severed from the Surat Basin rail corridor land on which it is situated or proposed to be situated. The Explantory Notes (p 37) explain why this provision has been included:

> As the Coordinator-General will retain ownership of the Surat Basin rail corridor land at all times and the railway will be affixed to the Surat Basin rail corridor land, common law principles and Commonwealth income tax legislation will treat the State as the legal owner of the rail infrastructure constructed on the land. Clause 59 will provide for the [Surat Basin Rail Joint Venture] to achieve its commercial objectives in depreciating the rail infrastructure, while not altering the right of the State to ownership of the Surat Basin rail corridor land, or the reversionary right of the State to own the declared infrastructure on the corridor at the end of the concession period.

The committee did not receive any submissions with respect to this proposal.

Committee position

The committee does not have any issues with this policy proposal.

[29] David Edwards, Director-General, Department of State Development, Infrastructure and Planning. Correspondence, 16 October 2012.

3 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* states that "fundamental legislative principles" are the "principles relating to legislation that underlie a parliamentary democracy based on the rule of law". The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

3.1 Rights and liberties of individuals

Section 4(2)(a) *Legislative Standards Act 1992* – Does the bill have sufficient regard to the rights and liberties of individuals?

Clause 55 states that chapter 8B, parts 1 and 3 of the *Building Act 1975* applies to the Surat Basin rail corridor land and land adjoining. Those parts allow land to be designated as a 'transport noise corridor'. Clause 55 will allow the Coordinator-General to, by gazette notice, designate land in and adjoining the Surat Basin rail corridor as a transport noise corridor where that land is within 100m of railway land or a State-controlled road; or where the land is between 100-250m of railway land or a State-controlled road if the noise level caused by rolling stock operating on the railway land at that distance is at least 70 decibels, or traffic on the State-controlled road is at least 58 decibels.

New residential buildings and alterations (eg. renovations, additions) to existing residential buildings in designated transport noise corridors need to comply with the Queensland Development Code, Mandatory Part 4.4 'Buildings in transport noise corridors'. Under the Code, buildings need to achieve certain levels of noise mitigation through the use of appropriate materials for the floor, walls, roof, windows and doors.

A property located in a (State) designated transport noise corridor also shows a notation/designation on the property's title that it is within a transport noise corridor. This means that, aside from the additional expense incurred by a property owner in bringing a property located in a designated transport noise corridor up to Code compliance, a property's designation as being within a transport noise corridor could also be expected to have a detrimental effect on the property's perceived and/or actual market value and its 'saleability' in general.

The committee would welcome a response from the Minister on this issue.

3.2 Administrative power

Section 4(3)(a) *Legislative Standards Act 1992* – Are rights, obligations and liberties of individuals dependent on administrative power only if the power is sufficiently defined and subject to appropriate review?

Subclause 38(1) allows a railway manager, with the Coordinator-General's written approval, to divert a watercourse, or to construct a watercourse (whether temporary or permanent) to enable railway works to be carried out. In deciding whether to approve the diversion of a watercourse the Coordinator-General must consider the effect the works for the diversion would have on the watercourse's physical integrity and flow characteristics (38(2)). Subclause 38(3) provides that 'subsection (2) does not limit the matters the Coordinator-General may consider.'

Whilst not specifically spelt out as a relevant consideration for the Coordinator-General in deciding whether to grant approval, the impact for properties (eg. farms) downstream of the diverted watercourse could potentially be serious if the diversion impacted either the quantity or quality of water available for use downstream by farm properties for personal/household use or for crop irrigation/machinery cooling etc.

The committee requests a response from the Minister on this issue.

Clause 45 allows the Coordinator-General to issue a person with a written direction to stop, alter or not start works where the Coordinator-General reasonably believes a person is carrying out, or proposes to carry out, works near the railway that threaten, or are likely to threaten, the railway's safety or operational integrity. The person is liable to a maximum penalty of 100 penalty units if the person fails, without reasonable excuse, to comply with the notice. If works are carried out without s.44 approval, or contrary to a direction given under ss.45(2), the Coordinator-General may, by written notice, require the owner of the land where the works are situated to alter, demolish or remove the works. The owner must, absent reasonable excuse, comply with the notice. If they do not, the Coordinator-General may alter, demolish and remove the works and can recover the cost of doing so from the land's owner.

There is no merits review or other appeal provision (eg. to the Minister) provided for in respect of these s.45 notices from the Coordinator-General, although judicial review could still be sought.

The absence of a merits review may be attributable to public safety concerns (as the grounds for the Coordinator-General to issue a notice are where he/she reasonably believes a person is carrying out, or proposes to carry out, works near the railway that threaten, or are likely to threaten, the railway's safety or operational integrity). The threat level posed by prospective works may require corrective action be taken expediently and not protracted/delayed while a merits review is conducted.

Judicial review is available to a land owner wishing to challenge the procedural aspects of the Coordinator-General's decision-making under s.45, although commencing such action may be cost-prohibitive for some affected land owners.

Subclause 71(2)(a) 'Regulation-making power' states that a regulation may provide for fees payable under the Act and *the matters for which they are payable*.

It is arguably preferable that the basis on which a fee is to be charged be contained in an Act, even if the amount of that fee is then prescribed by regulation. This is because when the subject matters for which fees may be set are not specified in the Act, it confers a very broad discretion on the Executive to impose fees by regulation for any function performed or service rendered under authority of the legislative scheme (although fees generally have to be reasonable and appropriate and in keeping with announced government policy to be 'authorised fees'.)

Conversely, proponents of a general regulation making power will argue that it allows, by not 'fettering' administrative discretion (as would occur if the Act listed appropriate matters for regulation) for regulations to be made as and when needed and as necessary to cover matters and issues as they arise.

When the subject matters that can be covered by regulation are specified in the Act, they are essentially, for the purpose of the Act, a finite list (without further amendment of the Act to extend the regulation making power). If a new issue arises (as is more likely to occur with new or 'groundbreaking' schemes/programs/policies) that is outside of the scope of the specified subject matters for regulation, potentially there may be no regulation making 'head of power' under which a regulation can be made to address the issue. Similarly, in those situations where an urgent legislative response is an imperative (to cover an emergent or unanticipated problem) having too-narrowly-defined and specific heads of power can fetter the administrative discretion to make urgent regulations to such an extent that there is simply no head of power under which the required regulation can be legitimately made, however necessary it may be.

Arguably, a more prudent approach is to list in the Act those (foreseeable) matters which should be the subject of regulation and include a 'catch-all'/general regulation making power as well. The listed subject matters will guide departments to the types of matters Parliament considers appropriate for inclusion in regulation for a particular legislative framework and will prima facie

legitimise/authorise regulations made within those subject specific heads of power. The inclusion in the primary legislation of an additional general regulation making power would also allow a regulation to be made to cover new matters arising which are not within the existing subject specific heads of regulation making power.

The committee wishes to draw this matter to the Minister's attention for consideration and response.

3.3 Onus of proof

Section 4(3)(d) *Legislative Standards Act 1992* – Does the bill reverse the onus of proof in criminal proceedings without adequate justification?

Clause 63 applies to a proceeding for an offence against the Act where a corporation's or a person's 'state of mind' is relevant to the act or omission occasioning the offence. Under ss.63(1)-(3) it will be enough to show that the act was done or omitted to be done by a representative of the corporation/person (e.g. executive officer, employee or agent) within the scope of the representative's actual or apparent authority and that the representative had the relevant state of mind. Under this clause, an act done or omitted to be done for a person by a representative within the scope of the representative's actual or apparent authority is taken to have been done/omitted to be done also by the person unless the person proves that they took reasonable precautions and exercised appropriate diligence to avoid the conduct.

Clause 63 may have insufficient regard to the rights and liberties of individuals as it effectively reverses the onus of proof by imposing an evidential burden on an accused person to prove that they took reasonable precautions and exercised appropriate diligence to avoid the offending conduct (at law a person generally cannot be found guilty of an offence unless he or she has the necessary intent themselves).

Where legislation infringes the fundamental legislative principle regarding reversal of the onus of proof, the committee is obliged to evaluate any information given by way of justification for the reversal. In this case the explanatory notes give a brief summation of the operation of the clause, but do not address the reversal of evidentiary burden nor offer any explanation or justification for it.

This issue is therefore referred to the Minister for consideration and response.

3.4 Power to enter premises

Section 4(3)(e) *Legislative Standards Act 1992* – Does the bill confer power to enter premises and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer?

Clause 20 allows the Coordinator-General or an associated person to enter the Surat Basin rail corridor land and land adjacent to that land to carry out railway works (20(1)). Whilst on that land they may, as reasonably necessary or convenient to carry out the works, make an inspection, investigation, valuation or survey; dig and bore into the land to determine the soil and substrata; set up survey pegs/marks/poles and inspect, alter, remove reinstate and repair the land. They may also occupy the land and on that land construct or place plant, machinery, equipment or goods, or erect workshops, sheds and other buildings (including accommodation for officers and their families), make roads, cuttings and excavations, manufacture and work materials of all kinds, take or deposit clay, earth, gravel, sand, stone, timber, wood and other material; or demolish, destroy and remove plant, machinery, equipment, goods, workshops, sheds, buildings or roads.

Clause 22 allows the Coordinator-General or an authorised associated person to enter *any* land to investigate the land's potential suitability for an expansion or realignment of the Surat Basin rail corridor land. They may, to the extent reasonably necessary or convenient to achieve the purpose of the entry – bring anything onto the land, do anything on the land, and temporarily leave machinery,

equipment or other items on the land. The power to enter the land under s.22 includes power to enter/re-enter and to remain for the period necessary to achieve the purpose of the entry and to take assistants, vehicles, materials, equipment and things onto the land as necessary for the purpose.

The power to enter the land includes power to enter/re-enter and to remain for the period necessary to achieve the purpose of the entry and to take assistants, vehicles, materials, equipment and things onto the land as necessary for the purpose. The Explanatory Notes for the Bill advise that an authority to carry out railway works may not be granted for longer than three years and an authority for investigations cannot be granted for more than one year. The Notes state that –'*This will ensure that any powers given to the SBRJV [Surat Basin Rail Joint Venture] are exercised within a reasonable time and the inconvenience to the land's owner or occupier is not of a long term nature.'*

The Explanatory Notes concede that the statutory access provisions in the Bill will impact on the common law rights of landowners to possession and quiet enjoyment of their land (p.12). The Notes also advise that, consistent with the provisions for comparable powers under the *State Development and Public Works Organisation Act 1971* and the *Transport Infrastructure Act 1994*, the Bill provides protections for landowners (being the consultation, consent, identification, damage mitigation and compensation/restitution protections outlined in the Explanatory Notes at p.12).

Part 3 Division 4 (cl. 24-27) covers notice requirements for entry to land and allows land owners/occupiers to claim compensation or restitution for any loss or damage caused by an entry onto land for railway works or an associated site investigation. Typically at least 7 days written notice to, or the written consent of, a land owner/occupier is required in respect of an intended entry. The notice/consent requirements do not apply where the person is entering the land to carry out maintenance on a road or urgent remedial action on the railway, although where urgent remedial action is required, the person entering must give the land's owner/occupier as much oral notice as is practicable (s2.24(6)&(7)). There are no notice or consent requirements where the entry is to conduct road maintenance (see similarly cl.41(2)(b)).

The committee would therefore welcome further comment and explanation from the Minister in relation to the proposed powers of entry to premises contained in the bill.

3.5 Is the Bill unambiguous and drafted in a sufficiently clear and precise way?

Section 4(3)(k) *Legislative Standards Act 1992*

Clause 27 relates to claims for compensation and/or restitution by a land owner/occupier for loss or damage caused by entry, investigation or works carried out on land; or for the taking or use of materials. Subclause 27(5) states that the amount of compensation for loss or damage caused by an entry to carry out railway works is either the amount agreed between the Coordinator-General and the owner/occupier or if they cannot agree *within a reasonable time* –the amount decided by the Land Court. The amount of compensation for loss or damage caused by an entry to investigate land is the amount agreed between the parties, or if the parties cannot agree *within a reasonable time*, the amount decided by the Land Court (27(6)). The provision is silent as to the methodology to be used by the parties to calculate appropriate compensation.

Whilst some discretion is needed when determining what is a reasonable time (usually what is 'reasonable' equates to what is reasonable in all of the relevant circumstances), clause 27 is also silent as to what might constitute a reasonable time for agreement to be negotiated/pursued before a party can have recourse to the Land Court for determination.

The lack of clarity in the (subjective) term 'reasonable time' could undoubtedly lead to confusion and frustration for parties who may feel pressured to compromise/settle the matter before it is taken to the Land Court by the other party; or conversely who may incur unnecessarily delays in their operations as they feel they have to wait 'a reasonable time' before they can proceed to the independent umpire (the Land Court). This will be especially frustrating if parties know from early

stages that they are unable/unwilling to agree/settle/compromise the matter but feel that they must wait 'a reasonable time' before pursuing the matter before the Court. It may be preferable if a time period was set (for clarity) such as '*the amount is to be decided by the Land Court if the parties cannot reach agreement within 3 months from notice of the claim, unless all parties agree in writing to earlier remove the matter to the Land Court for final adjudication and determination.'*

The Committee requests that the Minister consider amending Clause 27 to establish greater clarity with respect to time frames for reaching agreement in relation to matters in dispute in accordance with the above proposal.

Subclause 31(2) states that *"Unless the railway manager and the authority responsible for the road agree, the railway manager must pay all reasonable expenses incurred by the authority in altering the road level."*

The use of the word 'unless' makes it seems likely that the word "otherwise" has been omitted in error before/after 'agree'.

3.6 Sufficient regard to the institution of Parliament

Section 4(4)(c) *Legislative Standards Act 1992* – Does the bill allow or authorise the amendment of an Act only by another Act?

Clause 7 defines Surat Basin rail corridor land as land that is within the area declared as the Surat Basin Infrastructure Corridor State Development Area under the *State Development and Public Works Organisation Act 1971*, owned by the Coordinator-General and prescribed under a regulation to be Surat Basin rail corridor land.

Clause 47 allows the Coordinator-General, for the transport of dangerous goods on or over the Surat Basin rail corridor land, to give a corresponding authority (non-confidential) information obtained under the Act, or information about action taken by the Coordinator-General under the Act. Clause 47(3) defines a corresponding authority to mean (a) *a government entity of the Commonwealth or another State responsible for administering a corresponding law to the* Transport Infrastructure Act 1994 *or the* Transport (Rail Safety) Act 2010, OR (b) *an entity prescribed under a regulation as a corresponding authority for this Act.*

Clause 7 will effectively allow parcels of land prescribed by regulation to alter (in a practical sense by adding/removing areas of land) the area of land that constitutes the Surat Basin rail corridor. Similarly, cl.47(3) will effectively allow a regulation to alter (in a practical sense) what is deemed to be a corresponding authority for the Act. The entities that constitute a 'corresponding authority' under the Act will alter each time a regulation prescribes an entity be added or removed from the list.

Although these clauses operate as Henry VIII clauses, they appear to be practical and reasonable in the circumstances and they operate with inherent limits. For example, the list of corresponding entities permitted under (b) will in all likelihood be 'read down' to being similar types of entities to those prescribed in (a). Also, allowing an entity to be prescribed by regulation as a 'corresponding authority' under paragraph (b) allows for future flexibility where a relevant entity doesn't fit within the scope of paragraph (a) but still requires expedient administrative access to information.

The issue is drawn to the Minister's attention.

Explanatory notes

Part 4 of the *Legislative Standards Act 1992* relates to explanatory notes. Subsection 22(1) states that when introducing a bill in the Legislative Assembly, a member must circulate to members an explanatory note for the bill. Section 23 requires an explanatory note for a bill to be in clear and

precise language and to include the bill's short title and a brief statement providing certain information.

Explanatory notes were tabled with the introduction of the bill. The notes are fairly detailed and contain the information required by s.23 and a reasonable level of background information and commentary to facilitate understanding of the bill's aims and origins. Some (but not all) potential fundamental legislative principle issues were identified in the notes.

Appendices

Appendix A – List of stakeholders from whom submissions were received

Submitters	
1.	Queensland Murray-Darling Committee Inc
2.	Surat Basin Rail Pty Ltd
3.	AgForce
4.	Creevey Russell Lawyers on behalf of six landholders affected by the Surat Basin Infrastructure Corridor State Development Area

Appendix B – Witnesses at the public hearing on 11 October 2012

Witnesses
Mr Allan Miller, Chief Operating Officer, Surat Basin Rail Pty Ltd
Mr Damian Salisbury, Legal Advisor to Surat Basin Rail Pty Ltd
Mr Charles Burke, Chief Executive Officer, AgForce
Ms Nina Murray, Policy Advisor, AgForce

Appendix C – Summary of key policy proposals within the various components of the Bill

The Department of State Development, Infrastructure and Planning provided the committee with a summary of the Bill's key policy proposals within the various components of the Bill.

Component of the Bill	Policy Proposals
Part 2	Proposes to ensure the state can effectively manage conditions of assignment and termination of the SBR Lease under the contractual regime set out in the SBR Operating Agreement. This can be achieved by removing the potential for the lessee to have recourse to an alternative, generic legal regime in the PLA.
Part 2	Proposes to enable the Coordinator-General to adjust the boundaries of the SBR Lease, if required, without having to negotiate a new lease.
Part 3	Proposes to provide the Coordinator-General with the power to enter private land, or to authorise the lessee or a railway manager to enter private land in order to undertake railway works or undertake investigations. Statutory powers of this nature are given to the Coordinator-Genral and may be exercised for private infrastructure projects under the *State Development and Public Works Organisation Act 1971* (SDPWO Act). Similar powers are also available to railway managers under the *Transport Infrastructure Act 1994*.
Parts 4, 5, 6, 7	Proposes to re-enact relevant provisions from chapters 7 and 16 of the *Transport Infrastructure Act 1994* (TIA) to ensure they apply to the SBR and SBR corridor. This is necessary as the SBR Lease will be a freehold lease rather than a lease issued under the TIA, which creates uncertainty as to the applicability of key regulatory sections of the TIA.
Part 4	Proposes to enable the construction, maintenance and operation of watercourse crossings over non-tidal boundary watercourses traversed by the SBR corridor.
Part 8	Proposes to enable the lessee of the SBR Lease to grant easements across the SBR corridor to adjoining landowners for the term of the SBR Lease.
Part 8	Proposes to enable the designation of adjacent land as a transport noise corridor under chapter 8B of the *Building Act 1975*. This designation will impose higher building standards on residential buildings in the vicinity of the SBR to reduce the effects of transport noise on the occupants.
Part 9	Proposes to enable the state to 'sever' the legal ownership of the SBR infrastructure from the legal ownership of the SBR corridor land the duration of the concession period, if required.