

## **EXPLANATORY MEMORANDUM RAILWAY (FORRESTFIELD - AIRPORT LINK) BILL 2015**

The purpose of this Bill is to authorise the construction of a railway from east of Bayswater Station to Forrestfield. Once passed, it is a special Act as envisaged by section 96 of the *Public Works Act 1902*.

This new railway will branch off the Midland line from a point east of Bayswater Station and end at Forrestfield, running underground in twin bored tunnels underneath the Swan River, Tonkin Highway and Perth Airport and will include three new stations, being Airport West Station (located underground in Belmont), Consolidated Terminal Station (located underground at Perth Airport to service both domestic and international flights) and Forrestfield Station.

Following are the contents of the Bill, described clause by clause.

### **Part 1 – Preliminary Matters**

#### ***Clause 1: Short Title***

The short title is *Railway (Forrestfield – Airport Link) Act 2015*.

#### ***Clause 2: Commencement***

The Act will come into operation on the day on which it receives the Royal Assent.

#### ***Clause 3: Terms used***

Clause 3 defines relevant terms used in the Bill.

### **Part 2 – Authority to construct Forrestfield – Airport Link**

#### ***Clause 4: Authority to construct railway***

Clause 4 authorises the construction of the proposed railway. The authority extends to construction and maintenance of the proposed railway with all the proper and usual works and facilities along the line which is specified in Schedule 1 to the Bill.

### **Part 3 – Application of written laws to airport section of railway**

As the railway will be constructed partly on or under Perth Airport land, being freehold land owned by the Commonwealth, and the Bill seeks to describe the full length of the railway, even that portion that is to be located on or under Perth Airport land, the Bill cannot permit the exercise of any rights or powers under State law in respect of Perth Airport land that are inconsistent with a Commonwealth law.

Therefore, the provisions in Part 3 of the Bill, explained below, have been drafted to limit the exercise of rights and powers granted by State laws on Perth Airport land to allow the Bill to apply as a surrogate Commonwealth law on Perth Airport land, by virtue of the *Commonwealth Places (Application of Laws) Act 1970 (Cth)*.

**Clause 5 : Compliance with Airports Act 1996 (Commonwealth) ('Airports Act')**

Clause 5 clarifies that a written law that applies in relation to the construction or maintenance of the railway applies, in relation to the railway to be constructed on Perth Airport land, only to the extent it is not inconsistent with the *Airports Act* or its related subsidiary legislation.

For example, the *Building Act 2011 (WA)* which governs the requirements for obtaining building permits for building works in this State, does not apply to building works on or under Perth Airport land as it is inconsistent with the building permit process established by the *Airports (Building Control) Regulations 1996 (Commonwealth)*.

Similarly, the requirement under the *Planning and Development Act* and Metropolitan Region Scheme to apply for development approval through the WA Planning Commission, a development assessment panel or a local authority before proceeding with a development does not apply to developments proposed in respect of Perth Airport land as the *Airports Act* has a separate process of development approval, via the submission of a major development plan to the Commonwealth.

**Clause 6: Application of *Land Administration Act 1997***

Clause 6(1) excludes the operation of the compulsory acquisition and compensation provisions in Parts 9 and 10 of the *Land Administration Act 1997* from applying to any acquisition of interests in Perth Airport land, as those provisions are inconsistent with the *Commonwealth Places (Application of Laws) Act 1970 (Cth)*. Therefore the right to enter Perth Airport land and to obtain land tenure to construct and maintain the railway on part of the Perth Airport land, is to be negotiated and agreed with the Commonwealth and its airport lessee.

Clause 6(2) excludes the operation of section 266 of the *Land Administration Act 1997* in respect of any interest in Perth Airport land acquired for the purpose of the railway. Section 266 of the *Land Administration Act* provides that once a railway is discontinued and the land on which it is situated is no longer required for railway purposes, the land reverts to Crown land free of any interests in favour of third parties. This provision cannot apply to that portion of the railway located on Perth Airport land if the railway were to be discontinued in future, as it is contrary to the Commonwealth's subsisting title to the Perth Airport land.

**Clause 7: Exercise by Public Transport Authority of powers under *Public Works Act 1902***

Clause 7 provides that the Public Transport Authority (PTA) must exercise powers under the *Public Works Act* section 99 in respect of that section of railway to be located on Perth Airport land, in accordance with the *Airports Act*.

Section 99 of the *Public Works Act* gives the PTA wide ranging powers to enter land and construct the railway, but these powers cannot be exercised by the PTA unconditionally where the railway is to be constructed or maintained on Perth Airport land; those powers are to be exercised in accordance with the permit and approval requirements set out in the *Airports Act* and related subsidiary legislation.

#### **Part 4 – Application of Metropolitan Region Scheme**

##### ***Clause 8: Planning approval not required for underground section of railway***

Clause 8 of the Bill specifically exempts underground railway works (other than railway stations, bus transfer facilities, car parks, etc) from WA Planning Commission approval, to reflect and formalise common practice. For all ground level development works, the normal provisions of the Metropolitan Region Scheme will apply.

#### **Schedule 1- Line of Forrestfield – Airport Link**

This schedule sets out the line of the proposed railway, including the portion to be constructed and maintained on or under Perth Airport land.