



Cross River Rail Delivery Authority Act 2016

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Queensland

Cross River Rail Delivery Authority Act 2016

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Cross River Rail Delivery Authority Act 2016

An Act to establish the Cross River Rail Delivery Authority

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Cross River Rail Delivery Authority Act 2016*.

2 Commencement

- (1) This Act commences on a day to be fixed by proclamation.
- (2) However, if no day has been fixed by 1 July 2017, the Act commences on that day.
- (3) The *Acts Interpretation Act 1954*, section 15DA does not apply to this Act.

3 Purpose

- (1) The purpose of this Act is to establish the Cross River Rail Delivery Authority—
 - (a) to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, in a cross river rail PDA; and
 - (b) to facilitate the efficient delivery of the cross river rail project and transport-related projects.

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- (2) It is the intention of Parliament that the authority continue in existence only until the cross river rail project and any transport-related projects are completed.

4 Act binds all persons

- (1) This Act binds all persons, including the State.
- (2) However, the State can not be prosecuted for an offence against this Act.

Division 2 Interpretation

5 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

6 Meaning of *cross river rail project*

- (1) The *cross river rail project* is the project known as the cross river rail project described in—
 - (a) the Coordinator-General’s report for the environmental impact statement for the project, dated December 2012, under the *State Development and Public Works Organisation Act 1971*; and
 - (b) any Coordinator-General’s change report for the project under that Act.
- (2) The *cross river rail project* also includes the carrying out of—
 - (a) development, other than development prescribed by regulation, in a cross river rail PDA; and
 - (b) PDA-associated development, other than PDA-associated development prescribed by regulation, for a cross river rail PDA.
- (3) In this section—

PDA-associated development see the *Economic Development Act 2012*, schedule 1.

7 Meaning of *transport-related project*

- (1) A *transport-related project* is a project prescribed by regulation—
- (a) that involves providing transport infrastructure in South East Queensland, other than on land that is—
 - (i) in a cross river rail PDA; or
 - (ii) PDA-associated land for a cross river rail PDA; and
 - (b) that the Minister, after consulting the Transport Minister, is satisfied relates to the operation of rail transport infrastructure provided, or to be provided, as a result of the cross river rail project.

- (2) In this section—

PDA-associated land, for a priority development area, see the *Economic Development Act 2012*, schedule 1.

rail transport infrastructure see the *Transport Infrastructure Act 1994*, schedule 6.

Transport Minister means the Minister administering the *Transport Infrastructure Act 1994*.

Part 2 Cross River Rail Delivery Authority

Division 1 Establishment

8 Establishment

The Cross River Rail Delivery Authority (the *authority*) is established.

9 Legal status

The authority—

- (a) is a body corporate; and
- (b) may sue and be sued in its corporate name.

10 Authority represents the State

- (1) The authority represents the State.
- (2) Without limiting subsection (1), the authority has the status, privileges and immunities of the State.

11 Application of other Acts

- (1) The authority is—
 - (a) a unit of public administration under the *Crime and Corruption Act 2001*; and
 - (b) a statutory body under—
 - (i) the *Financial Accountability Act 2009*; and
 - (ii) the *Statutory Bodies Financial Arrangements Act 1982*.
- (2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way that Act affects the authority's powers.

Division 2 Functions and powers

12 Functions

- (1) The authority's main functions are—
 - (a) to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, in a cross river rail PDA; and

- (b) to facilitate the efficient delivery of the cross river rail project and transport-related projects.
- (2) Without limiting subsection (1)(a), the authority has the following functions—
- (a) to identify opportunities and options for facilitating economic development, and development for community purposes, in a cross river rail PDA;
 - (b) to identify, and consult with relevant entities about, options for funding development mentioned in paragraph (a);
 - (c) to give advice and recommendations about a matter mentioned in paragraph (a) or (b) to—
 - (i) the Minister; and
 - (ii) if appropriate, a relevant entity.
- (3) Without limiting subsection (1)(b), the authority has the following functions in relation to the cross river rail project or a transport-related project—
- (a) to carry out planning for the project, including—
 - (i) inviting and evaluating proposals for the delivery of the project; and
 - (ii) facilitating the procurement and supply of infrastructure and services for the project;
 - (b) to ensure that any approvals or authorities required for the project under other laws are obtained;
 - (c) to enter into and manage contractual and other arrangements for the delivery of the project, including, for example—
 - (i) negotiating and entering into agreements about funding for the project; and
 - (ii) ensuring contracts and agreements are performed in accordance with their terms;
 - (d) to consult, or facilitate consultation, with relevant entities about funding and delivery of the project;

- (e) to provide, ensure the provision of, or manage infrastructure and other services and facilities for, or relating to, the project;
 - (f) to promote the project through, for example, advertising and encouraging investment;
 - (g) to give advice and recommendations about options for funding and delivering the project to—
 - (i) the Minister; and
 - (ii) if appropriate, a relevant entity.
- (4) In carrying out its functions under this section, the authority must have regard to—
- (a) for a function relating to the cross river rail project—an interim land use plan or a development scheme for a cross river rail PDA; or
 - (b) for a function relating to a transport-related project—any planning instrument that applies to the land on which development for the project is proposed to be carried out.
- (5) The authority also has—
- (a) the functions given to it under this Act or another Act; and
 - (b) any other function, relating to its main functions under subsection (1), prescribed by regulation.
- (6) In this section—
- development scheme***, for a priority development area, see the *Economic Development Act 2012*, schedule 1.
- interim land use plan***, for a priority development area, see the *Economic Development Act 2012*, schedule 1.
- planning instrument*** means—
- (a) a development scheme for a priority development area; or
 - (b) a planning instrument under the Planning Act.

relevant entity means—

- (a) the Commonwealth; or
- (b) another State; or
- (c) any other entity the authority considers is, or may be, involved in or affected by—
 - (i) the cross river rail project; or
 - (ii) a transport-related project.

13 Functions to be carried out commercially

- (1) The authority must, to the extent practicable, carry out its functions as a commercial enterprise.
- (2) However, subsection (1) does not apply to the authority to the extent it is performing its community service obligations.

14 Powers

- (1) The authority has all the powers of an individual and may, for example—
 - (a) enter into contracts or agreements; and
 - (b) deal in land or other property; and
 - (c) appoint agents and attorneys; and
 - (d) engage consultants or contractors; and
 - (e) establish funds and accounts with any financial institution in Australia; and
 - (f) charge a government agency a fee for services or facilities it supplies; and
 - (g) do anything else necessary or convenient to be done in performing its functions or exercising its powers.
- (2) The authority also has the powers given to it under this Act or another Act.

15 Performing functions and exercising powers inside and outside Queensland

The authority may perform its functions, or exercise its powers, inside or outside Queensland.

16 Ministerial direction

- (1) The Minister may give a written direction to the authority about the performance of its functions or the exercise of its powers.
- (2) However, a direction must not be about the content of any advice or recommendation given by the authority.
- (3) The authority must—
 - (a) comply with a direction given under subsection (1); and
 - (b) publish a copy of the direction on the authority's website.

17 Authentication of documents

- (1) A document made by the authority, other than a document required to be sealed, is sufficiently made if it is signed by the chief executive officer, the chairperson of the board or another person authorised by the board.
- (2) A document made by the authority that is required to be sealed is sufficiently made if it is sealed in the way authorised by the board and signed by the chief executive officer, the chairperson of the board or another person authorised by the board.

Division 3 Dealing in land or other property

18 What power to deal in land or other property includes

- (1) For this Act, the authority's power to deal in land or other property includes a power to deal in an interest in land or other property.

- (2) Also, for this Act, the authority's power to deal in land includes a power to deal in land and improvements on land.

19 Dealing in land or other property generally

- (1) The authority may deal in land and other property for the following purposes (each a *cross river rail purpose*)—
- (a) performing its functions under section 12(1);
 - (b) providing or improving facilities or services for users of the infrastructure and facilities provided as a result of the cross river rail project or a transport-related project;
 - (c) addressing adverse environmental impacts that arise as a result of the delivery of the cross river rail project or a transport-related project;
 - (d) building or moving ancillary works and encroachments, or a public utility plant, for the delivery of the cross river rail project or a transport-related project.
- (2) This section does not limit section 14(1)(b).
- (3) In this section—

ancillary works and encroachments see the *Transport Infrastructure Act 1994*, schedule 6.

public utility plant see the *Transport Infrastructure Act 1994*, schedule 6.

20 Power to take land

- (1) The authority may, as provided under this section, take land if the land is required for a cross river rail purpose in relation to—
- (a) the cross river rail project; or
 - (b) a transport-related project prescribed by regulation for this section.
- (2) The authority's power to take land under subsection (1) includes—

- (a) power to take land or an easement, or another interest in land above or beneath the surface, without acquiring rights in the surface; and
 - (b) power to take a lease of State land or another interest in State land that is less than freehold.
- (3) Subsection (2) applies to the taking of an easement even though the easement—
 - (a) is not attached to, or used and enjoyed with, a dominant tenement; or
 - (b) must not be used and enjoyed in common with any other person.
- (4) For the taking of land under this section—
 - (a) the authority is a constructing authority under the *Acquisition of Land Act 1967*; and
 - (b) the *Acquisition of Land Act 1967* applies as if a reference in that Act to land includes a reference to a lease of State land or another interest in State land that is less than freehold.
- (5) Land taken by the authority under this section—
 - (a) may be described in the instrument taking the land in any way sufficient to identify the land; and
 - (b) vests in the authority.
- (6) To remove any doubt, it is declared that land may be taken under this section for a cross river rail purpose even if, at the time the land is taken, it is not known when the land will be required for the purpose.
- (7) The authority's power to take land under this section does not limit the authority's powers to take land, as a constructing authority, under the *Acquisition of Land Act 1967*.
- (8) In this section—

easement includes a transport easement for support as defined under the *Transport Planning and Coordination Act 1994*, section 28AC(1).

21 Taking additional land

- (1) This section applies if—
 - (a) the authority, under section 20, proposes to take, or has taken, part of any land (the *acquisition land*); and
 - (b) the taking of the acquisition land will leave, or has left, 1 or more parcels of land (the *additional land*) owned by the person who owns or owned the acquisition land.
- (2) The authority may, with the Minister's approval, take all or part of the additional land.
- (3) Section 20 applies to the taking of all or part of the additional land—
 - (a) as if the land were land that may be taken under section 20; and
 - (b) as if the reference in section 20(2) to subsection (1) of section 20 were a reference to subsection (2) of this section; and
 - (c) with any other necessary changes.
- (4) For the *Acquisition of Land Act 1967*, the taking of all or part of the additional land is taken to be for a purpose incidental to the carrying out of the purpose for which the acquisition land is to be, or was, taken.

22 Taking an interest in State land

- (1) This section applies if the authority gives or amends a notice of intention to resume in relation to the taking, under this division, of a lease of State land or another interest in State land that is less than freehold.
- (2) The authority must give the registrar notice, in the appropriate form, of the giving or amendment of the notice of intention to resume.
- (3) If the registrar is given a notice under subsection (2), the registrar must record in the land registry that the notice of intention to resume has been given or amended.

- (4) Subsection (5) applies if—
 - (a) the lease or other interest is taken by the authority; or
 - (b) the taking of the lease or other interest is discontinued.
- (5) The authority must give the registrar notice of the fact in the appropriate form.
- (6) If the registrar is given a notice under subsection (5), the registrar must remove the particulars of the notice of intention to resume from the land registry.
- (7) In this section—

appropriate form see the *Land Act 1994*, schedule 6.

land registry means the land registry under the *Land Act 1994*, section 275.

registrar means the chief executive of the department in which the *Land Act 1994* is administered.

23 Changing requirement for land taken

- (1) This section applies in relation to land taken under section 20 for a particular cross river rail purpose.
- (2) The Minister may, by gazette notice, declare that the land is required for another stated cross river rail purpose.
- (3) The land is taken to have been acquired for the other stated cross river rail purpose from the day the declaration is published in the gazette.
- (4) The *Acquisition of Land Act 1967*, section 41 does not apply to the land because of the change of purpose.
- (5) This section does not affect any right of a person to compensation because of the taking of the land.
- (6) To remove any doubt, it is declared that a declaration under subsection (2)—
 - (a) is not an acquisition of the land; and
 - (b) does not give a right to compensation.

24 Matters affecting compensation payable

- (1) For assessing, under the *Acquisition of Land Act 1967*, the compensation to be paid to a person for land taken under this division, regard must not be had—
 - (a) to the value of any works carried out on the land after—
 - (i) a notice of intention to resume the land is given to a person entitled under the *Acquisition of Land Act 1967* to compensation for the land; or
 - (ii) a resumption agreement for the land is entered into; or
 - (b) to any change in the value of the land relating to a declaration of a cross river rail PDA under the *Economic Development Act 2012*, including, for example, a change in the value of the land because of—
 - (i) an interim land use plan under that Act for the cross river rail PDA; or
 - (ii) a development scheme under that Act for the cross river rail PDA.
- (2) This section applies despite the *Acquisition of Land Act 1967*, section 20(2).
- (3) In this section—

resumption agreement see the *Acquisition of Land Act 1967*, section 15(1).

25 Power to use, lease or dispose of land

- (1) The authority may, to give effect to a cross river rail purpose, do any of the following—
 - (a) lease, or agree to lease, to any person land taken, or proposed to be taken, under this division;
 - (b) sign an agreement with any person to carry out, own, operate or maintain any works or development on land taken, or proposed to be taken, under this division;

- (c) sign an agreement with any person in relation to works or development for land taken, or proposed to be taken, under this division;
 - (d) sell land taken, or agree to sell land proposed to be taken, under this division.
- (2) To remove any doubt, it is declared that the power of the authority to acquire land, including the power to take land under this division, applies even if the acquisition is carried out with the intention of disposing of the land, or entering into an agreement, under subsection (1).
- (3) Subsection (2) does not limit the power to take land under this division.
- (4) This section applies despite the *Acquisition of Land Act 1967*, section 41.

26 Notice of intention to dispose of land that is not required

- (1) This section applies in relation to land taken under this division and held by the authority if, within 7 years after the day the land is taken—
- (a) the land is no longer required by the authority; and
 - (b) the authority intends to dispose of the land.
- (2) The authority must, by notice, advise the former owner of the land that the authority intends to offer the land to the former owner.
- (3) The notice must state—
- (a) that the former owner must, within 28 days after the notice is given, give notice to the authority (the ***response notice***) stating whether or not the former owner is interested in buying the land; and
 - (b) that the authority may dispose of the land to another person if—
 - (i) the authority does not receive the response notice under paragraph (a); or

- (ii) the response notice states that the former owner is not interested in buying the land; and
 - (c) if the authority has taken an easement under subsection (4)—the nature and terms of the easement.
- (4) Before giving a notice under subsection (2), the authority may take an easement over all or part of the land to ensure the structural and operational integrity of any transport infrastructure on the land.
- (5) This section applies despite the *Acquisition of Land Act 1967*, section 41.

27 Power to dispose of land that is not required

- (1) Subsection (2) applies if the former owner of land taken under this division gives the authority a response notice for the land stating that the former owner is interested in buying the land.
- (2) The authority must, by notice, offer the land, subject to any easement over the land, for sale to the former owner at a price decided by the authority.
- (3) Subsection (4) applies if the former owner of land taken under this division—
- (a) does not give a response notice for the land; or
 - (b) gives a response notice stating that the former owner is not interested in buying the land; or
 - (c) does not accept an offer for the sale of the land made by the authority.
- (4) The authority may dispose of the land, subject to any easement over the land.
- (5) In deciding the price for which the land may be sold under subsection (2) or (4), the authority must consider—
- (a) a valuation by a valuer registered under the *Valuers Registration Act 1992*; and
 - (b) the policies and systems for the management of government assets; and

- (c) the existence of any easement over the land.
- (6) A person contracting or otherwise dealing with the authority in relation to land does not have to ask whether section 26 or this section has been complied with.
- (7) The title of any person to land acquired from the authority is not affected by a failure to comply with section 26 or this section.
- (8) This section applies despite the *Acquisition of Land Act 1967*, section 41.

28 Holding land or other property obtained as security

- (1) This section applies if the authority acquires or otherwise becomes entitled to land or other property as security for, or in satisfaction, liquidation or discharge of, a debt owing to the authority.
- (2) The authority may hold the land or property until it can be advantageously disposed of.

Division 4 Community service obligations

29 Community service obligations to be stated in operational plan

- (1) The authority's operational plan for a financial year must state—
 - (a) the obligations (the *community service obligations*) that the Minister—
 - (i) is satisfied are not in the authority's commercial interests to perform; and
 - (ii) has directed the authority to perform in the financial year; and
 - (b) the costings of, funding for, or other arrangements to make adjustments relating to, the authority's community

service obligations for the financial year, as agreed between the Minister and the authority.

- (2) The authority's operational plan is conclusive, as between the government and the authority, of—
- (a) the nature and extent of the authority's community service obligations; and
 - (b) the ways in which, and the extent to which, the authority is to be compensated by the government for performing its community service obligations.
- (3) In this section—

operational plan, of the authority, means the authority's operational plan under the *Financial Accountability Act 2009*.

Part 3 Cross River Rail Delivery Board

Division 1 Establishment, functions and powers

30 Establishment

The authority has a board of management (the *Cross River Rail Delivery Board*).

31 Functions

The functions of the board are—

- (a) to ensure the proper, efficient and effective performance of the authority's functions; and
- (b) to decide the objectives, strategies and policies to be followed by the authority; and
- (c) to ensure that the authority complies with its strategic plan, and operational plan, under the *Financial Accountability Act 2009* for a financial year; and

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- (d) to report to the Minister about the performance of the authority's functions; and
- (e) another function given to the board under this Act.

32 Powers

- (1) The board has the power to do anything necessary or convenient to be done in performing its functions.
- (2) The board may give a written direction to the chief executive officer about the performance of the officer's responsibilities.
- (3) Anything done in the name of, or for, the authority by the board, or with the authority of the board, is taken to have been done by the authority.

Division 2 Membership

33 Membership of board

- (1) The board consists of the following persons (each a *board member*)—
 - (a) the chief executive of the department in which the *Auditor-General Act 2009* is administered, or a senior executive nominated by that chief executive;
 - (b) the chief executive of the department in which the *Financial Accountability Act 2009* is administered, or a senior executive nominated by that chief executive;
 - (c) the chief executive of the department in which the *Rail Safety National Law (Queensland) Act 2017* is administered, or a senior executive nominated by that chief executive;
 - (d) the chief executive of the department in which this Act is administered, or a senior executive nominated by the chief executive;
 - (e) not more than 6 other members.

- (2) A board member mentioned in subsection (1)(a), (b), (c) or (d) is a ***permanent board member***.
- (3) A board member mentioned in subsection (1)(e) is an ***appointed board member***.
- (4) Appointed board members are appointed by the Governor in Council on the recommendation of the Minister.
- (5) In recommending a person to the Governor in Council for appointment to the board, the Minister must be satisfied the person has qualifications or experience in a field relevant to a function of the authority.
- (6) An appointed board member may be appointed on a full-time or part-time basis.
- (7) An appointed board member is appointed under this Act and not the *Public Service Act 2008*.
- (8) A senior executive nominated by a chief executive under subsection (1)(a), (b), (c) or (d) is a board member for the period decided by that chief executive.

34 Chairperson and deputy chairperson

- (1) The Governor in Council may appoint—
 - (a) a board member to be the chairperson of the board; and
 - (b) another board member to be the deputy chairperson of the board.
- (2) A board member may be appointed as the chairperson or deputy chairperson at the same time the person is appointed as a board member.
- (3) The chairperson and deputy chairperson may be appointed on a full-time or part-time basis.
- (4) The chairperson or deputy chairperson holds office for the term, ending not later than the person's term of appointment as a board member, stated in the person's appointment as chairperson or deputy chairperson.

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- (5) However, a person's appointment as chairperson or deputy chairperson ends if, during the term of appointment, the person stops being a board member.
- (6) The deputy chairperson must act as chairperson—
 - (a) during a vacancy in the office of chairperson; and
 - (b) during all periods when the chairperson is absent from duty or for another reason can not perform the duties of the office.

35 Disqualification as appointed board member

A person is disqualified from becoming, or continuing as, an appointed board member if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) is a member of the authority's staff or a contractor of the authority.

36 Term of appointment

- (1) An appointed board member holds office for the term, not longer than 3 years, stated in the member's instrument of appointment.
- (2) Subsection (1) does not prevent an appointed board member being reappointed.

37 Conditions of appointment

- (1) An appointed board member is to be paid the remuneration and allowances decided by the Governor in Council.

- (2) An appointed board member holds office on the terms and conditions, not provided for by this Act, decided by the Governor in Council.

38 Vacancy in office

An appointed board member's office becomes vacant if the member—

- (a) completes a term of office and is not reappointed; or
- (b) resigns office by signed notice given to the Minister; or
- (c) becomes disqualified under section 35 from continuing as an appointed board member.

39 Leave of absence

- (1) The Minister may—
- (a) approve a leave of absence for the chairperson or deputy chairperson; and
 - (b) appoint someone else to act in the office of the deputy chairperson while the deputy chairperson is absent on leave.
- (2) The chairperson may—
- (a) approve a leave of absence for an appointed board member, other than the chairperson or deputy chairperson; and
 - (b) appoint someone else to act in the office of the appointed board member while the member is absent on leave.

40 Register of interests

- (1) The authority must keep a register of each board member's pecuniary interests.
- (2) Each appointed board member must, as soon as practicable after the member's appointment to the board, give the

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Minister and integrity commissioner a written summary of the member's pecuniary interests at the time of the member's appointment.

- (3) Each permanent board member must, before acting in the office of board member, give the Minister and integrity commissioner a written summary of the member's pecuniary interests.
- (4) Each board member must, within 30 days after any substantial change in the member's pecuniary interests, give the Minister and integrity commissioner notice of the change and an updated written summary of the member's pecuniary interests.
- (5) The register kept under subsection (1) must be updated at least once during each 12-month period of the board member's term of office.
- (6) In this section—

integrity commissioner means the Queensland Integrity Commissioner under the *Integrity Act 2009*.

Division 3 Board meetings

41 Conduct of business

Subject to this division, the board may conduct its business, including its board meetings, in the way it considers appropriate.

42 Board meetings

- (1) The chairperson may convene a meeting of board members (a *board meeting*).
- (2) The chairperson must convene a board meeting—
 - (a) at least 3 times each year; and
 - (b) if requested in writing by—

- (i) 3 or more other board members; or
- (ii) the Minister.

43 Presiding at board meetings

- (1) The chairperson is to preside at all board meetings at which the chairperson is present.
- (2) If the chairperson is absent from a board meeting, the deputy chairperson is to preside.
- (3) If neither the chairperson nor deputy chairperson is present at a board meeting, the board member chosen by the board members present is to preside.

44 Quorum at board meetings

- (1) A quorum for a board meeting is a majority of the board's members for the time being.
- (2) However, if at a board meeting a board member present at the meeting is required under this Act not to be present during deliberations, or not to take part in any decision, of the board for a particular matter, the remaining board members present at the meeting constitute a quorum for the meeting.
- (3) Despite subsections (1) and (2), there is no quorum for a board meeting if the majority of board members purportedly forming the quorum are permanent board members.

45 Voting at board meetings

- (1) A question at a board meeting is decided by a majority of the votes of the board members present at the meeting and able to vote on the question.
- (2) If the votes are equal, the board member presiding at the board meeting also has a casting vote.

46 Disclosure of interests at board meetings

- (1) This section applies to a board member if—
 - (a) a matter is being considered, or is about to be considered, at a board meeting; and
 - (b) the member has a material personal interest in the matter; and
 - (c) the material personal interest could conflict with the proper performance of the member's duties in relation to the consideration of the matter.
- (2) A board member has a *material personal interest* in the matter if any of the following persons or entities stands to gain a benefit or suffer a loss (either directly or indirectly) because of the outcome of the consideration of the matter—
 - (a) the board member;
 - (b) a spouse of the board member;
 - (c) a parent, child or sibling of the board member;
 - (d) a partner of the board member;
 - (e) an employer, other than a government agency, of the board member;
 - (f) an entity, other than a government agency, of which the board member is an office holder.
- (3) As soon as practicable after the relevant facts come to the board member's knowledge, the member must disclose the nature of the material personal interest to the other board members at the meeting.
- (4) The board member may further participate in the meeting only if a majority of the other board members at the meeting vote in favour of the member's further participation.
- (5) However, the board member can not participate in any vote on the matter at the meeting.
- (6) A disclosure under subsection (3) must be recorded in the minutes of the board meeting.

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- (7) A failure to make a disclosure under subsection (3) does not, of itself, invalidate a decision of the board.

47 Minutes

The board must keep minutes of its board meetings.

48 Decisions of the board without board meetings

- (1) The board may make a decision without having a board meeting if—
- (a) the board has previously decided that the decision, or type of decision, can be made without a board meeting; and
 - (b) a majority of the board members entitled to vote on the proposed decision indicate agreement with the decision, in the way previously approved by the board; and
 - (c) all board members were informed of the proposed decision, or reasonable efforts were made to inform all board members of the proposed decision.
- (2) For subsection (1)(b), a board member is not entitled to vote on a proposed decision if the member would not be entitled to vote on the decision if it had been considered at a board meeting.
- (3) The board must keep a record of decisions made under this section.

Part 4 Chief executive officer

49 Appointment

- (1) The board must, in consultation with the Minister, appoint a chief executive officer.
- (2) The chief executive officer—
- (a) is an employee of the authority; and

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- (b) is appointed under this Act and not the *Public Service Act 2008*.
- (3) If there is a vacancy in the office of the chief executive officer or the chief executive officer is for any reason unable to perform the functions of the office, the board may appoint a person to act as the chief executive officer for a period of not more than 6 months.
- (4) Subsection (3) does not limit the power of the board, in consultation with the Minister, to appoint a person under the *Acts Interpretation Act 1954*, section 25(1)(b) to act as the chief executive officer.
- (5) Despite subsection (2), if a person appointed (whether under subsection (3) or by a power mentioned in subsection (4)) to act as the chief executive officer is an officer or employee of a government agency, the authority and the chief executive of that agency may agree to treat the appointment as if it were an alternative staffing arrangement under section 58.

50 Chief executive officer's responsibilities

- (1) The chief executive officer is responsible for the day-to-day administration of the authority, including—
 - (a) employing persons under section 57(1); and
 - (b) arranging for the services of officers or employees of a government agency under section 58(1); and
 - (c) engaging contractors of the authority.
- (2) In carrying out the chief executive officer's responsibilities, the chief executive officer must act in compliance with the written policies and directions of the board.
- (3) The chief executive officer is accountable to the board.

51 Disqualification as chief executive officer

A person is disqualified from becoming, or continuing as, the chief executive officer if the person—

- (a) has a conviction, other than a spent conviction, for an indictable offence; or
- (b) is an insolvent under administration; or
- (c) is disqualified from managing corporations because of the Corporations Act, part 2D.6; or
- (d) is a contractor of the authority; or
- (e) contravenes section 55 or 56.

52 Term of appointment

- (1) The chief executive officer is appointed for the term, not longer than 5 years, stated in the officer's instrument of appointment.
- (2) Subsection (1) does not prevent a person from being reappointed as chief executive officer.

53 Conditions of appointment

- (1) The chief executive officer is to be paid the remuneration and allowances decided by the board.
- (2) For matters not provided for under this Act or stated in the chief executive officer's instrument of appointment, the chief executive officer holds office on the terms and conditions decided by the board.

54 Vacancy in office

The office of the chief executive officer becomes vacant if the chief executive officer—

- (a) completes a term of office and is not reappointed; or
- (b) resigns office by signed notice given to the board; or
- (c) becomes disqualified under section 51 from continuing as chief executive officer.

55 Chief executive officer not to engage in other paid employment

The chief executive officer must not, without the board's prior written approval—

- (a) engage in paid employment outside the responsibilities of the office of the chief executive officer; or
- (b) actively take part in the activities of a business, or in the management of a corporation carrying on a business.

56 Conflicts of interest

If the chief executive officer has an interest that conflicts, or may conflict, with the discharge of the officer's responsibilities, the officer—

- (a) must disclose the nature of the interest and conflict to the board as soon as practicable after the relevant facts come to the officer's knowledge; and
- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict unless authorised by the board.

Part 5 Other staff

57 Authority staff

- (1) The authority may employ other staff it considers appropriate to perform its functions.
- (2) The staff are appointed under this Act and not the *Public Service Act 2008*.

58 Alternative staffing arrangements

- (1) The authority may, with the agreement of the chief executive of a government agency, arrange for the services of officers or employees of the agency to be made available to the authority.

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- (d) amounts received by the authority for carrying out a function or exercising a power as a delegate of MEDQ under the *Economic Development Act 2012* that the delegation provides may be retained by the authority;
- (e) any other amounts received by the authority in carrying out its functions or exercising its powers under this Act, including, for example, interest received in relation to a fund or bank account kept under this Act;
- (f) any amount appropriated by Parliament for the purposes of the fund;
- (g) any amount paid into the fund at the direction of or with the approval of the Minister and the Treasurer.

61 Payments of amounts from fund

A payment of an amount from the fund may be made for any of the following purposes—

- (a) paying expenses incurred by the authority for—
 - (i) a dealing in land or other property under this Act;
or
 - (ii) the provision of infrastructure or other activities, facilities or services under this Act; or
 - (iii) the administration or enforcement of this Act; or
 - (iv) performing another function, or exercising another power, under this Act;
- (b) paying fees or expenses related to administering the fund or another fund or bank account kept under this Act;
- (c) paying an amount the Minister and the Treasurer direct the authority, in writing, to pay into the consolidated fund.

Part 7 Offences and legal proceedings

Division 1 Offences

62 Duty to act honestly

- (1) This section applies to a person who is—
 - (a) a board member; or
 - (b) the chief executive officer; or
 - (c) a member of the authority’s staff; or
 - (d) a contractor of the authority.
- (2) The person must at all times act honestly in the performance of the person’s functions and the exercise of the person’s powers under this Act.

Maximum penalty—200 penalty units.

63 New convictions must be disclosed

- (1) This section applies if a person who is an appointed board member or the chief executive officer is convicted of an indictable offence during the term of the person’s appointment.
- (2) The person must, unless the person has a reasonable excuse, immediately give notice of the conviction to the Minister.

Maximum penalty—100 penalty units.

- (3) The notice must include the following information—
 - (a) the existence of the conviction;
 - (b) when the offence was committed;
 - (c) sufficient details to identify the offence;
 - (d) the sentence imposed on the person.

64 Use of confidential information

- (1) This section applies to a person who—
 - (a) is, or has been, a board member, the chief executive officer, a member of the authority’s staff or a contractor of the authority; and
 - (b) obtains confidential information in administering, or performing a function under, this Act.
 - (2) The person must not, whether directly or indirectly, disclose the confidential information unless the disclosure is—
 - (a) in the performance of a function or exercise of a power under this Act; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) otherwise required or permitted by law.
- Maximum penalty—200 penalty units.

Division 2 Evidentiary provisions

65 Offences against this Act

- (1) An offence against this Act is a summary offence.
- (2) A proceeding for the offence must start within whichever is the longer of the following—
 - (a) 1 year after the commission of the offence;
 - (b) 6 months after the offence comes to the complainant’s knowledge, but within 2 years after the commission of the offence.

66 Appointments and authority

In a proceeding, the following must be presumed unless a party to the proceeding, by reasonable notice, requires proof of it—

- (a) the appointment under this Act of an appointed board member or the chief executive officer;
- (b) the authority of a board member, the chief executive officer, a member of the authority's staff, or a contractor of the authority, to do anything under this Act.

67 Signatures

A signature purporting to be the signature of a board member or the chief executive officer is evidence of the signature it purports to be.

68 Other evidentiary aids

- (1) In a proceeding, a certificate purporting to be that of the chairperson stating any of the following matters is evidence of the matter—
 - (a) a stated document is an appointment made under this Act;
 - (b) a stated document is a document made by, or given to, the authority;
 - (c) a stated document is a copy of a document mentioned in paragraph (a) or (b).
- (2) A statement in a complaint for an offence against this Act that the matter of the complaint came to the complainant's knowledge on a stated day is evidence the matter came to the complainant's knowledge on that day.

Part 8 Other matters

69 Relationship with Queensland Heritage Act 1992

- (1) This section applies to proposed development for the cross river rail project, or a transport-related project, if the development is to be carried out in relation to a Queensland heritage place under the *Queensland Heritage Act 1992*.

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- (2) For the *Queensland Heritage Act 1992*, section 71, the development is taken to be development proposed to be carried out by the State.
- (3) The *Queensland Heritage Act 1992*, section 71 applies to the proposed development—
 - (a) as if the reference in the section to the chief executive of the department or agency proposing the development were a reference to the chief executive officer; and
 - (b) as if a reference in the section to the Minister proposing the development were a reference to the authority; and
 - (c) with any other necessary changes.

70 Criminal history report

- (1) To decide if a person is disqualified from becoming or continuing as the chief executive officer or an appointed board member, the Minister may ask the commissioner of the police service for—
 - (a) a written report about the criminal history of the person; and
 - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the Minister may make the request only if the person has given the Minister written consent for the request.
- (3) The commissioner of the police service must comply with the request.
- (4) However, the duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) The Minister must ensure the report is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.
- (6) In this section—

criminal history, for a person, means the person's criminal history as defined under the *Criminal Law (Rehabilitation of Offenders) Act 1986*, other than spent convictions.

71 Annual budgets and financial management policies

- (1) Each year—
 - (a) the authority must prepare a budget—
 - (i) of estimated costs of the authority for the next financial year; and
 - (ii) consistent with the strategic priorities of the authority; and
 - (b) the board members must approve the budget and the authority's financial management policies; and
 - (c) the authority must give the approved budget and financial management policies to the Minister.
- (2) The Minister must approve, or refuse to approve, the budget and financial management policies before the end of the financial year.
- (3) However, a failure by the Minister to act under subsection (2) does not prevent the Minister approving, or refusing to approve, a budget or financial management policy at a later time.
- (4) A budget or financial management policy has no effect until it has been approved by the Minister.
- (5) During a financial year, the authority may prepare amendments to the budget for that year.
- (6) An amendment to a budget has no effect until it has been approved by—
 - (a) for a minor amendment—the chairperson in consultation with the other board members; or
 - (b) otherwise—the Minister on the recommendation of the chairperson in consultation with the other board members.

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- (7) If the chairperson and the other board members differ about what should be recommended to the Minister for an approval under this section, the Minister may still give the approval.
- (8) In this section—

financial management policies means the policies to be observed in financial and performance management by the authority.

Note—

Under the *Financial Accountability Act 2009*, section 57, the authority must comply with a provision of a financial and performance standard that applies to the authority as a statutory body.

minor amendment, of a budget, means an amendment of a minor nature that does not change the total of the estimated costs mentioned in the budget.

72 Annual report

- (1) The authority must include in its annual report prepared under the *Financial Accountability Act 2009*, section 63—
- (a) details of the functions performed by the authority during the year; and
 - (b) information about how efficiently and effectively the authority has performed its functions, including identifying key achievements and financial and non-financial performance; and
 - (c) details of—
 - (i) each direction given by the Minister under section 16(1) during the financial year to which the report relates; and
 - (ii) action taken by the authority because of the direction.
- (2) The details mentioned in subsection (1) may include statistics.
- (3) The board must approve the report before it is given to the Minister.

- (4) The report must not be prepared in a way that discloses confidential information.

73 Delegations

- (1) The authority may delegate its functions under this Act to a board member or the chief executive officer.
- (2) The board may delegate its functions under this Act to a board member or the chief executive officer.
- (3) The chief executive officer may delegate any of the officer's responsibilities to an appropriately qualified member of the authority's staff.
- (4) A board member may subdelegate a function delegated to the board member under subsection (1) or (2) to the chief executive officer or an appropriately qualified member of the authority's staff.
- (5) The chief executive officer may subdelegate a function delegated to the officer under subsection (1) or (2) to an appropriately qualified member of the authority's staff.
- (6) In this section—
function includes power.

74 Regulation-making power

The Governor in Council may make regulations under this Act.

Schedule 1 Dictionary

section 5

appointed board member see section 33(3).

authority see section 8.

board means the Cross River Rail Delivery Board.

board meeting see section 42(1).

board member see section 33(1).

chairperson means the person appointed as chairperson under section 34(1)(a).

chief executive officer means the person appointed as chief executive officer under section 49(1).

community service obligations, of the authority, see section 29(1)(a).

confidential information—

- (a) means any information that—
 - (i) could identify an individual; or
 - (ii) is about a person’s current financial position or financial background; or
 - (iii) would be likely to damage the commercial activities of a person to whom the information relates; but
- (b) does not include—
 - (i) information that is publicly available; or
 - (ii) statistical or other information that could not reasonably be expected to result in the identification of the individual to whom it relates.

contractor, of the authority, means a person, other than a member of the authority’s staff, who performs services for the authority—

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- (a) under a contract between the person and the authority;
or
 - (b) under an arrangement between the authority and another person.

conviction means a finding of guilt or acceptance of a plea of guilty by a court, whether or not a conviction is recorded.

Cross River Rail Delivery Board see section 30.

cross river rail PDA means a priority development area declared under the *Economic Development Act 2012* for proposed development for the cross river rail project or a part of the project.

cross river rail project see section 6.

cross river rail purpose see section 19(1).

deal, in land or other property, includes acquire, develop, dispose of, hold, lease, license the use or occupation of, manage, sublease or otherwise deal in or with the land or other property, or interests in the land or other property.

delivery, of the cross river rail project or a transport-related project, includes—

- (a) carrying out development for the project; and
- (b) the commissioning and operation of infrastructure, provided as a result of the project, for its intended use.

deputy chairperson means the person appointed as deputy chairperson under section 34(1)(b).

development, other than in sections 3 and 12—

- (a) generally means development within the meaning of the Planning Act, section 7; and
- (b) for a priority development area, includes development within the meaning of the *Economic Development Act 2012*, section 33(2).

former owner, of land taken under part 2, division 3, means—

- (a) if, immediately before the land was taken, only 1 person had an interest in the land and that person is still alive or,

in the case of a corporation, in existence—that person;
or

- (b) otherwise—any person that the authority considers, having regard to the interest that existed in the land immediately before it was taken, is fairly entitled to the benefit of section 26(2).

fund means the Cross River Rail Delivery Fund established under section 59(1).

government agency—

- (a) means—
- (i) a department or an administrative unit within a department; or
 - (ii) a government owned corporation or a subsidiary of the corporation; or
 - (iii) an entity that is established under an Act and represents the State; or
 - (iv) an entity that is established under an Act, does not represent the State and is prescribed by regulation; or
 - (v) Stadiums Queensland established under the *Major Sports Facilities Act 2001*, section 5; or
 - (vi) the Queensland Rail Transit Authority or a subsidiary of the Authority; or
 - (vii) the Queensland Bulk Water Supply Authority established under the *South East Queensland Water (Restructuring) Act 2007*, section 6; or
 - (viii) a department, or an administrative unit within a department, of the government of the Commonwealth; or
 - (ix) a statutory body representing the Commonwealth; or
 - (x) the Brisbane City Council; or
 - (xi) a corporation owned by the Brisbane City Council; or

- (xii) an entity that conducts a beneficial enterprise or business activity, within the meaning of the *City of Brisbane Act 2010*, in participation with or for the Brisbane City Council; but
- (b) does not include an entity mentioned in paragraph (a)(i), (ii), (iii), (viii), (ix), (xi) or (xii) prescribed by regulation.

insolvent under administration see the Corporations Act, section 9.

notice means written notice.

notice of intention to resume see the *Acquisition of Land Act 1967*, section 7(1).

permanent board member see section 33(2).

Planning Act means the *Sustainable Planning Act 2009*.

priority development area see the *Economic Development Act 2012*, schedule 1.

Queensland Rail Transit Authority means the Queensland Rail Transit Authority established under the *Queensland Rail Transit Authority Act 2013*, section 6.

response notice see section 26(3)(a).

spent conviction means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11 of that Act.

State land means all land in Queensland that is not freehold land, as defined under the *Land Act 1994*, schedule 6.

subsidiary—

- (a) of a government owned corporation, means a subsidiary under the *Government Owned Corporations Act 1993*;
or

- (b) of the Queensland Rail Transit Authority, means a body corporate that would be a subsidiary of the Authority under the Corporations Act, part 1.2, division 6 if the Authority were a body corporate within the meaning of that Act.

transport infrastructure see the *Transport Infrastructure Act 1994*, schedule 6.

transport-related project see section 7(1).