

Cross River Rail Delivery Authority Regulation 2019

Explanatory Notes for SL 2019 No. 17

made under the

Cross River Rail Delivery Authority Act 2016

General Outline

Short Title

This regulation may be cited as the *Cross River Rail Delivery Authority Regulation 2019*.

Authorising Law

Sections 7(1), 7(2), 20 and 74 of the *Cross River Rail Delivery Authority Act 2016*.

Policy objectives and the reasons for them

The objective of the *Cross River Rail Delivery Authority Act 2016* (CRRDA Act) is to establish the Cross River Rail Delivery Authority (Delivery Authority):

- to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, in a Cross River Rail Project Development Area; and
- to facilitate the efficient delivery of the cross river rail project and transport-related projects.

Since it was established the Delivery Authority has been assigned or has identified delivery responsibility for activities that fall beyond its formal head of power. These now include delivery responsibility for European Train Control System (ETCS) projects, and the Fairfield to Salisbury upgrade project (as defined in the Regulation).

All these activities relate to rail transport infrastructure provided, or to be provided, as a result of the Cross River Rail (CRR) Project.

To confirm the Delivery Authority is duly authorised to lead and deliver these activities, it is necessary to have those activities declared 'transport-related projects' by the Governor in Council and formally prescribed by regulation.

Achievement of policy objectives

The *Cross River Rail Delivery Authority Regulation 2019* (the Regulation) will achieve its policy objectives by confirming the ETCS projects and Fairfield to Salisbury upgrade project (as defined in the Regulation) are transport-related projects prescribed (by regulation) under Sections 7(1), 7(2), and 20 of the CRRDA Act and declared by the Governor in Council under Section 74 of the CRRDA Act.

Section 7 of the CRRDA Act provides that ‘transport-related projects’ may only be prescribed in specific circumstances (i.e. where the project involves providing transport infrastructure in South-East Queensland and relates to the operation of CRR, but is not part of the CRR Project).

The Explanatory Notes accompanying the CRRDA Act confirmed that the full extent of the CRR Project was not likely to be known until after the Delivery Authority was established, and possibly after the CRR Project is well underway, and that activities beyond the original scope could be prescribed by regulation.

The above circumstances, as foreshadowed in the Explanatory Notes to the CRRDA Act, apply to the preparation of this Regulation. Enlivening these provisions will also ensure the Delivery Authority will have a formal head of power to lead and deliver on additional project responsibilities.

Consistency with policy objectives of authorising law

The preparation of the Regulation is consistent with Sections 7, 20 and 74 of the CRRDA Act, which provide that:

- a transport-related project is a project prescribed by regulation ... 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 (Section 7);
- 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 transport-related project prescribed by regulation for this section (Section 20); and
- the Governor in Council may make regulations under this Act (Section 74).

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

Alternative approaches to incorporating these activities into the Delivery Authority’s formal head of power include:

- legislative amendment to the CRRDA Act;
- formal application to the Coordinator-General seeking a Request for Project Change for the Coordinator-General’s report on the Environmental Impact Statement; or
- declaration of a Cross River Rail Priority Development Area over the areas impacted by the additional activities.

None of the alternative approaches are deemed reasonable or appropriate mechanisms for achieving the policy objectives, as they are all:

- significantly more resource intensive;
- likely to take more time; and
- would achieve the same or very similar outcome foreshadowed by the inclusion of a regulation making power in the CRRDA Act, with no (or limited) additional benefit.

Benefits and costs of implementation

Making this Regulation has been deemed the most practical, efficient and effective mechanism for incorporating the additional activities into the Delivery Authority's formal head of powers. There were no additional administrative costs associated with the preparation of the Regulation.

Benefits of making the Regulation include:

- reducing any risks associated in the Delivery Authority participating in CRR Project related activities for which it may not currently have a formal head of power; and
- mitigating potential costs and CRR Project delays associated with delivering works through other Queensland public sector departments and agencies for any activities for which the Delivery Authority may not have a formal head of power.

Consistency with fundamental legislative principles

The Regulation does not conflict with fundamental legislative principles.

Consultation

In accordance with the *Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. Queensland Treasury self-assessed the Regulation to be excluded from further regulatory impact analysis under exclusion category (c) Regulatory proposals for the internal management of the public sector or statutory authority.

As the Regulation relates primarily to the internal activities of the Delivery Authority external community consultation in relation to the preparation of the Regulation was not considered necessary.