

## Economic Development and Other Legislation Amendment Bill 2024

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Every Queensland  
community deserves  
to be a liveable one

# Economic Development and Other Legislation Amendment Bill 2024

Submission to the Cost of Living and  
Economics Committee

April 2024

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## About the Local Government Association of Queensland (LGAQ)

The Local Government Association of Queensland (LGAQ) is the peak body for local governments in Queensland. It is a not-for-profit association established solely to serve local governments and their needs. The LGAQ has been advising, supporting, and representing local governments since 1896, enabling them to improve their operations and strengthen relationships with their communities. The LGAQ does this by connecting local governments to people and places; supporting their drive to innovate and improve service delivery through smart services and sustainable solutions; and providing them with the means to achieve community, professional and political excellence.

## Partners-in-Government Agreement

The LGAQ, on behalf of all 77 Queensland local governments, is a signatory to a three-year Partners-in-Government Agreement with the State of Queensland.

The Agreement details the key principles underlying the relationship between the State and local governments and establishes the foundation for effective negotiation and engagement between both levels of government.

The Agreement acknowledges that local government is the closest level of government to the community, affecting the lives of everyday Queenslanders and acknowledging local government as a genuine partner in the Australian government system.

The intent of the Agreement was to continue the tradition of working in genuine partnership to improve the quality of life for all Queenslanders to enjoy. By identifying the roles and responsibilities of each party, it provides a solid foundation for effective negotiation and engagement between both levels of government.

The LGAQ is committed to working with the State Government and will continue to be a passionate advocate for local governments, to serve our joint jurisdiction for the people of Queensland.

# Economic Development and Other Legislation Amendment Bill 2024

## 1.0 Executive Summary

The LGAQ welcomes the opportunity to provide feedback to the Cost of Living and Economics Committee on the *Economic Development and Other Legislation Amendment Bill 2024* (the Bill), aimed at strengthening the remit of Economic Development Queensland (EDQ) to deliver more housing supply across the State, including new social and affordable housing.

Importantly, local government supports an effective planning system guided by appropriate legislation and balanced social, environmental, cultural and economic interests. Our sector is the level of government most connected to our local communities and should be recognised and empowered, as the sphere of government immediately responsible for land use planning and development assessment.

Local governments are acutely aware of the diverse, complex and multi-faceted housing challenges being faced by Queenslanders, the development industry, and regulators. Demand and need for housing in well-serviced locations is high, but so too are barriers to housing – such as increased materials costs, labour shortages and supply chain issues in a post-covid environment.

Despite being the most financially constrained level of government, councils have, and continue to, invest considerable time and resourcing into planning scheme amendments, incentive schemes, and support services. These activities have included identifying over 800 local government owned sites across the State, which are potentially suitable for housing developments – and could be facilitated by EDQ.

In addition, the latest figures reported by the Queensland Government Statisticians Office (QGSO) as at February 2024, continue to show that councils are doing their job in facilitating land for housing, with 85,282 hectares of residential greenfield and brownfield land (greater than 2,500 m<sup>2</sup>) currently suitable for residential development across monitored regions of the State (which would open up 578,359 homes state-wide). In addition, the QGSO reports there are nearly 99,000 residential lots already approved by councils across Queensland, but not yet developed as at the September 2023. In South East Queensland alone, councils have also approved more than 94,000 apartments and townhouses (over 9 years of supply) - according to the State Government's latest (2021) Land Supply and Development Monitoring Report.

In 2023, the LGAQ developed a Local Government Housing Strategy<sup>1</sup>. The strategy contains a set of community-driven priorities to ensure every Queensland has access to safe, affordable and reliable housing. The LGAQ is pleased to see some of these priorities being adopted by the State Government – such as increasing the income threshold for the Queensland Housing Finance Loan - but would welcome more of the actions identified in the Strategy being actioned, noting many of these can be implemented *now*, without necessitating lengthy legislative amendments or restructuring government departments.

Overall, while the intent behind the Bill (to progress actions identified in the Queensland Housing Summit Outcomes Report and to deliver more housing supply across the State) is understood

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<sup>1</sup> 2023 Local Government Housing Strategy – available online [here](#).

and supported in principle, a range of concerns have been raised by Queensland councils – both with regards to what is, and is not, included in the Bill. As such, the Bill cannot be supported in its current form.

A central tenant of the Bill is to provide for EDQ's ongoing financial sustainability. While this intent is understood, the LGAQ does not believe EDQ's financial sustainability should come at the expense of local governments' financial sustainability.

At present and as proposed by the Bill, the MEDQ has powers to direct a local government to provide or maintain infrastructure or land they have not budgeted for or been a party to designing. In addition, EDQ can establish infrastructure funding frameworks (or not) for PDAs and PDA-supporting infrastructure without the consent of councils, and there remains no direct funding channel for certain forms of council infrastructure in PDAs. These parameters present significant risks to councils' financial sustainability, which should have been addressed by the Bill, in consultation with Queensland councils.

In summary, the LGAQ's key concerns, as articulated in this submission relate to:

- The *longstanding impact* of EDQ's practices on local governments' financial sustainability;
- The introduction of *new threats* to the financial sustainability of Queensland councils, as proposed by the Bill.
- A lack of proactive engagement with councils to address ongoing concerns;
- A lack of checks-and-balances, to provide local governments with confidence in EDQ's PDA and infrastructure planning processes; and
- Disproportionate ministerial powers, and the impacts these powers may have on councils, ratepayers, distributor-retailers and information security.

Despite the LGAQ raising concerns regarding the *Economic Development Act 2012* and its impacts on councils, including in a previous submission on the *Economic Development and Other Legislation Amendment Bill 2018*<sup>2</sup>, unfortunately no efforts were made to proactively engage with councils, or to seek their input regarding what should be included in the current Bill prior to its introduction to Parliament.

The Bill *should* have been taken as an opportunity to partner with local government to address challenges in our shared efforts to deliver housing for Queenslanders. Rather, the Bill serves EDQ's interests with little regard for impacts on councils, ratepayers, or genuine solutions to the housing crisis.

While the LGAQ did receive a confidential briefing and some advice regarding what may be included in the Bill prior to its introduction, this advice was given under the proviso of confidentiality, so it could not be shared or consulted on with Queensland councils. In addition, the LGAQ was given three (of ten) draft confidential factsheets for comment, four business days prior to the Bill being introduced.

The LGAQ did provide feedback and raised a number of concerns at that time, but these remain outstanding in the current version of the Bill and are key priorities outlined in this submission. Proposed amendments to Ministerial powers for the MEDQ which will have significant impacts on local governments, were *not* discussed with the LGAQ.

It is also acknowledged that the Bill refers to subordinate legislation to provide clarity and operationalise arrangements established by the Bill, such as a new definition of social and

<sup>2</sup> LGAQ Submission on Economic Development and Other Legislation Amendment Bill 2018 – available online [here](#).

affordable housing. Given this reliance on subordinate legislation (which has not been consulted on, yet), the LGAQ would request that, when drafted, updates to instruments such as the *Economic Development Regulation 2023* are consulted on in a genuine and meaningful way.

Finally, the LGAQ emphasises its significant concern with the timing of the Bill's introduction, three business days after local government elections, before most results were declared, and at a critical time when most councils had competing priorities and other essential business to attend to. In the absence of genuine and meaningful engagement from EDQ, the LGAQ has engaged with its members to the extent possible, and based this submission on established policy positions and resolutions passed by Queensland councils at prior LGAQ Annual Conferences.

The timing and duration (15 business days) of consultation on the Bill does not have regard to the time local government officers require to review the Bill, draft a submission, brief Councillors, and obtain the necessary approvals to provide a submission. These complications are worsened when considering that, at the time the Bill was introduced, many councils were not yet formed following elections.

The limited timeframe is also not in line with expectations that are set under the Partners-in-Government Agreement, signed and agreed with the State Government. As such, while many of our members would like to have made a submission on the Bill, most are not able to.

Due to our concerns, the LGAQ cannot support the Bill in its current form, and requests that it be re-drafted in genuine consultation with local governments.

## 1.1 Recommendations

In total, the LGAQ has made 15 recommendations which are summarised below:

### Engagement with councils

- **Recommendation 1:** The LGAQ recommends that the Bill not be passed in its current form, to allow for redrafting of specific provisions, and insertion of new provisions, in genuine consultation with local government.
- **Recommendation 2:** If the Bill is passed, the LGAQ recommends it be passed with amendments to mitigate impacts on local governments' financial sustainability, ratepayers and distributor-retailers, to appropriately balance ministerial powers proportionate to need, and to give local governments the surety they require regarding EDQs operations in their local government areas.
- **Recommendation 3:** The LGAQ recommends that EDQ collaboratively and proactively engages with local government to develop subordinate legislation associated with the Bill.
- **Recommendation 4:** The LGAQ recommends that a requirement be included in the Bill, requiring the MEDQ to obtain the agreement of each relevant local government before declaring a PDA or establishing a PDA development scheme.
- **Recommendation 5:** The LGAQ recommends that the collaborative tenants of the Place Renewal Framework be applied to PDAs in their entirety.
- **Recommendation 6:** The LGAQ recommends that a provision be inserted in the Bill (s20A (2)(c)), limiting the MEDQ's ability to acquire council-owned land or assets, without first obtaining the agreement of the relevant council.
- **Recommendation 7:** The LGAQ recommends the State Government adopts and implements all actions identified in the 2023 Local Government Housing Strategy.

### Financial sustainability

- **Recommendation 8:** The LGAQ recommends the State Government supports Queensland councils' calls to modernise the trunk infrastructure funding system, to minimise impacts on ratepayers and local governments' financial sustainability.
- **Recommendation 9:** The LGAQ recommends the State Government reconsider, in consultation with councils and the LGAQ, the proposed amendments through s117D and s117E of the Bill, that would allow for the transfer of infrastructure charges revenue from councils to EDQ.
- **Recommendation 10:** The LGAQ recommends that a requirement be included in the Bill, requiring the MEDQ to consult with, and obtain the agreement of, the relevant local government when establishing:
  - an associated infrastructure funding framework for a PDA; and
  - standards of service for infrastructure in a PDA.
- **Recommendation 11:** The LGAQ recommends the Bill be amended to replace the MEDQ's s127 and s128 *directions* powers, with powers that allow the MEDQ to make a *request* for a local government to accept the transfer of land, provide infrastructure or maintain infrastructure *by agreement*.

### Operational arrangements

- **Recommendation 12:** The LGAQ recommends the State Government consider and consult with Queensland councils and the LGAQ on a range of operational matters that have been identified (refer **Attachment 1**), prior to finalisation of the Bill and associated subordinate legislation.
- **Recommendation 13:** The LGAQ recommends that s126A the Bill be amended to explicitly limit the MEDQ's power to request information which is council-in-confidence or commercial-in-confidence.
- **Recommendation 14:** The LGAQ recommends that a reciprocal provision be added to s126A of the Bill, allowing a relevant local government to request information from EDQ necessary for the good governance of their local government area, to the extent that information is not cabinet-in-confidence or commercial-in-confidence.
- **Recommendation 15:** If an independent Board is to be established for EDQ, the LGAQ requests that the terms of reference for the Board ensure local government experience, expertise and interests are represented.

Please do not hesitate to contact Matthew Leman, Lead – Planning and Development Policy via email at [matthew.leman@lgaq.asn.au](mailto:matthew.leman@lgaq.asn.au) or phone on 1300 542 700 should you wish to discuss any aspect of this submission.



## 2.0 Introduction

The LGAQ welcomes the opportunity to provide feedback to Cost of Living and Economics Committee the on the *Economic Development and Other Legislation Amendment Bill 2024* (the Bill), introduced by the Hon. Grace Grace MP, Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing on 20 March 2024.

Overall, the LGAQ is extremely disappointed in timing and duration of consultation on this Bill and cannot support the Bill in its current form.

The LGAQ has prepared this submission based on the agreed positions of Queensland councils as contained in the LGAQ Policy Statement and previous LGAQ Annual Conference resolutions. In addition, direct feedback from council officers has helped to inform this submission which is structured to focus on 3 key areas of concern, namely:

- Engagement with councils;
- Financial sustainability; and
- Operational arrangements.

Further detail regarding these concerns, structured by these focus areas, is provided below. In addition, an overview of the LGAQ Policy Statement is also provided (insofar as is relevant to this submission), to give further context to these concerns.

### 2.1 LGAQ Policy Statement

The LGAQ Policy Statement<sup>3</sup> is a definitive statement of the collective voice of local government in Queensland. The relevant policy positions of local government in the context of the Bill, are as follows:

#### Planning and Development

- 6.1.1 Strategic planning
  - 6.1.1.1 *Local government should be recognised as the sphere of government immediately responsible for land use planning and development assessment.*
  - 6.1.1.2 *Local government supports an effective planning system guided by appropriate legislation and balanced social, environmental, cultural and economic interests.*
  - 6.1.1.4 *Local government supports the use of prescriptive standards and assessment benchmarks in a local planning instrument, where appropriate, to provide certainty of development outcomes. The State Government can support this during state interest review processes.*
  - 6.1.1.6 *Local government opposes State Government land use planning policy or intervention that inhibits local decision making.*
  - 6.1.2.8 *Local government supports the use of Priority Development Areas (PDAs) by Economic Development Queensland to facilitate development in specific locations only where undertaken in consultation with and with the full agreement by local government, including full agreement regarding infrastructure planning and expenses recovery.*
  - 6.1.3.3 *Local governments support flexibility in timeframes for local government*
  - 6.1.3.5 *All spheres of government should comply with the provisions of local planning instruments when undertaking development, inclusive of obtaining and complying with appropriate approvals, payment of relevant fees, and provision of required external infrastructure or financial contributions.*

<sup>3</sup> LGAQ Policy Statement 2022 – <https://www.lgaq.asn.au/downloads/file/531/2022-lgaq-policy-statement>

## Community Development

- 7.1.7 Housing
  - 7.1.7.1 *Local government is committed to working in partnership with the State and Federal governments, and industry, to effectively address the challenges of housing affordability and supply. Councils are seeking the opportunity to identify and develop a range of innovative and fit for purpose strategies across all communities, to support growth and investment, improve liveability, and grow stronger and more diverse local communities.*
  - 7.1.7.3 *Local government will actively participate in forums and networks, where appropriate, that seek to establish good practice approaches to sustainable, accessible and affordable housing.*

Given the breadth of challenges facing housing availability and affordability, it is imperative to recognise the critical role local governments play in local land use planning.

Furthermore, as articulated by the LGAQ Policy Statement, the State Government should agree with the principles of empowerment and of subsidiarity, which holds that decisions should be made by the lowest level of government capable of properly doing so. Intergovernmental relations should be conducted in a spirit of mutual respect and cooperation with an emphasis on partnership and a commitment to timely and frequent communication, with recognition of each other's roles and responsibilities.

It is requested that the State recognise this and respects the role of local governments as the level of government closest to the community – uniquely able to consider State interests and locally apply State directions in the context of local opportunities and challenges, and the interests of their local communities.

## **2.2 LGAQ Annual Conference Resolutions**

In the context of the Bill, the following resolutions have been passed by local governments at the immediate past and previous LGAQ Annual Conferences directly relevant to the *Economic Development Act 2012* and PDA framework and should be given regard by the Cost of Living and Economics Committee in their consideration of the Bill.

### **Resolution 31 (2014) - Priority Development Areas - Amendments to Council Cost Recovery Mechanisms**

*The LGAQ calls on the State Government to amend the Economic Development Act 2012 and associated State Government policy so that in a PDA, where an upfront infrastructure charge is required for EDQ infrastructure, an upfront infrastructure charge is also required for any council infrastructure.*

### **Resolution 33 (2019) - Loss of Infrastructure Charges**

*The LGAQ calls on the State Government to partner with local governments and or distributor-retailers (e.g. QUU) to develop alternatives to prevent the costs associated with development within PDAs from being transferred to the local government and distributor-retailer customers.*

## 3.0 Engagement with councils

### 3.1 Engagement on the Bill

The LGAQ understands the Bill is intended to help address the ‘housing crisis’ being felt in much of Queensland, and as such, appreciates the perceived urgency of the Bill. Notwithstanding, the consultation period (15 business days), largely overlapping with caretaker periods for local government elections, is a significant concern for Queensland councils. This consultation period does not respect the time local government officers require to review the Bill, draft a submission, brief Councillors, and obtain the necessary approvals to provide a submission.

As such, although the Bill will have significant impacts on many councils, most have not been able to make a submission. In this regard, the LGAQ would argue that the principles of natural justice have not been respected and consultation should be extended to ensure it is truly representative and genuine.

The LGAQ has previously raised significant and material concerns with the *Economic Development Act 2012*, including but not limited to concerns regarding:

- Circumvention of local planning requirements (developed in consultation with local communities by democratically elected councils) and State planning instruments;
- The transparency and accountability of EDQ processes and decisions;
- The need for engagement with local governments in planning for and developing PDAs; and
- Obtaining the agreement of infrastructure providers for standards of service and infrastructure funding arrangements.

The Bill should have been an excellent opportunity to address these concerns in genuine, proactive collaboration with local governments. However, this has not occurred, and the concerns of Queensland councils remain unanswered.

In addition, the Bill defers to subordinate legislation (which is not being consulted on) to provide clarity on certain matters. Deferring to subordinate legislation, without providing relevant drafts or clarity through factsheets, makes it impossible for stakeholders to comprehensively interpret and provide fulsome feedback on proposals.

Given this reliance on subordinate legislation (which has not been consulted on, yet), if the Bill is passed, the LGAQ would request that, when drafted, updates to instruments such as the *Economic Development Regulation 2023* are consulted on in a genuine and meaningful way.

**Recommendation 1:** The LGAQ recommends that the Bill not be passed in its current form, to allow for redrafting of specific provisions, and insertion of new provisions, in genuine consultation with local government.

**Recommendation 2:** If the Bill is passed, the LGAQ recommends it be passed with amendments to mitigate impacts on local governments’ financial sustainability, ratepayers and distributor-retailers, to appropriately balance ministerial powers proportionate to need, and to give local governments the surety they require regarding EDQs operations in their local government areas.

**Recommendation 3:** The LGAQ recommends that EDQ collaboratively and proactively engages with local government to develop subordinate legislation associated with the Bill.

### 3.2 Engagement when planning for PDAs

The LGAQ understands there is a general requirement for the Minister for Economic Development Queensland (MEDQ) to *consult* with each relevant local government in planning for, or developing in, PDAs (Economic Development Act 2012, section 13(3)). However, there remains no obligation for the MEDQ to obtain the full *agreement* of a local government in planning for, or developing in, a PDA.

This conflicts with the LGAQ Policy Statement (policy 6.1.2.8 - refer above), neglects the unique local knowledge of local governments, threatens the attainment of shared objectives (such as increased housing supply), and may pose risks to the safety and security of people and property.

For instance, a local government may increase the capacity of trunk infrastructure in a particular catchment to facilitate new housing (as is common practice). However, if a PDA is declared within that same infrastructure catchment, the PDA risks exhausting this capacity – inhibiting the ability of council to support the new housing they've planned for. Consequently, no net benefit in housing supply is achieved.

As a further example, a local government may conduct flood modelling for land and conclude that developing the land would pose unacceptable risks adjoining landowners. If a PDA were declared over this land and the land were subsequently developed, without the council's consent, it would risk the safety and security of people and property.

Situations like this could be avoided (supporting the purpose of the Bill), if a requirement were established for the MEDQ to obtain *agreements* from relevant councils before declaring or planning for a PDA.

While it is acknowledged that, to date, most PDAs have been declared with agreement from councils, there remains no safeguard to ensure this good practice moving forward.

Notwithstanding, the Bill has introduced the concept of a 'Place Renewal Framework', which will apply to distinct 'Place Renewal Areas' within PDAs. This framework is intended to "bring together government, community, and industry stakeholders (...) through collaboration, enhanced integration (etc.)" (Explanatory Notes, page 5). Furthermore, the Bill establishes that before declaring a Place Renewal Area, the MEDQ must consult with the relevant local government.

The LGAQ would see it as appropriate to apply these same principles of collaboration, especially with local government and distributor-retailers, to the entirety of PDAs – not just distinct areas within PDAs.

**Recommendation 4:** The LGAQ recommends that a requirement be included in the Bill, requiring the MEDQ to obtain the agreement of each relevant local government before declaring a PDA or establishing a PDA development scheme.

**Recommendation 5:** The LGAQ recommends that the collaborative tenants of the Place Renewal Framework be applied to PDAs in their entirety.

The LGAQ is also concerned with the extent of proposed powers, which would allow the MEDQ to acquire council-owned land. These powers allow the MEDQ to acquire land within a Place Renewal Area "*where necessary to give effect to the Framework*" (Explanatory Notes, page 6 and

Bill s20A (1)(b)) or “anywhere else where necessary for “infrastructure that benefits the PDA” (Explanatory Notes, page 7 and Bill s20A (1)(a)).

Only where acquired land is to be conferred to a third party must ‘reasonable steps’ be taken to obtain the agreement of the landowner (Explanatory Notes, page 6 and Bill s20A (4)).

Given the nature of council landholdings (often intended to deliver essential, strategic infrastructure), it is essential that checks and balances be established within the Bill, to ensure that, were the relevant landowner is a local government, agreement is obtained before acquiring land.

**Recommendation 6:** The LGAQ recommends that a provision be inserted in the Bill (s20A (2)(c)), limiting the MEDQ’s ability to acquire council-owned land or assets without first obtaining the agreement of the relevant council.

While endeavours to support an appropriate supply of affordable housing are commendable, these endeavours should be well informed. PDAs, administered by EDQ, are a valued tool to support a long-term pipeline of planned housing supply, however, no *planning* tool should be considered an appropriate mechanism to respond to an *immediate* housing crisis.

Notwithstanding the above, EDQ is in a unique position as both a planning agency *and* developer. However, caution should still be taken in assuming EDQ can meaningfully respond to an immediate crisis, or expeditiously contribute to new housing in support of National Housing Accord targets within the next five years.

Many PDAs declared more than five years ago are yet to deliver any residential development. This includes The Mill at Moreton Bay (declared in 2016) and Yeronga (declared in 2018). Where EDQ is not a planning agency, such as at ‘Yeerongpilly Green’, all land owned by EDQ and intended for residential apartments since 2016 remains undeveloped.

Efforts to expeditiously support new housing supply, as is the purpose of the Bill, will be further complicated by time taken to amend and enact new legislation, develop regulations, appoint board members, and re-form EDQ under a new corporate structure.

These comments do not seek to critique the effectiveness of EDQ as a planning and development agency, and their long-term track record. Rather, these comments seek to reinforce that the housing challenges facing Queensland are pervasive and immediate, and amendments to legislation should not be seen as a tool to expeditiously deliver new housing.

If the State Government’s intention is to deliver meaningful housing supply quickly, or ‘more homes faster’, regard should be given to the LGAQ’s 2023 Local Government Housing Strategy<sup>4</sup>. The Strategy contains a set of community-driven priorities to ensure every Queensland has access to safe, affordable and reliable housing. And, importantly, the plan can be implemented *now*.

While some of the priorities included in the Housing Strategy have been acknowledged by the State Government, many remain outstanding or substantially un-progressed.

**Recommendation 7:** The LGAQ recommends the State Government adopts and implements all actions identified in the 2023 Local Government Housing Strategy.

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<sup>4</sup> 2023 Local Government Housing Strategy – available online [here](#).

## 4.0 Financial sustainability

### 4.1 Impact of existing infrastructure charging mechanisms

According to the Explanatory Notes associated with the Bill, a key aspect of the proposed amendments is to provide for “EDQ’s on-going financial sustainability” (page 8), through measures such as a proposed new corporate structure, as well as fees and charges. A similar objective is shared by local governments – who have a statutory obligation to act in a way which supports their financial sustainability.

The ability of local governments to maintain their financial sustainability has been limited by Queensland’s infrastructure funding framework under the *Planning Act 2016* and the PDA framework under the *Economic Development Act 2012*.

Under these frameworks, local governments have been unduly constrained in their ability to charge a fair price for the infrastructure they deliver. For example, while councils are constrained by an infrastructure charge cap set by the State Government, in the State Government’s own PDAs, EDQ allow themselves to charge, on average, 50% more for infrastructure than the State Government allows councils to charge.

The Queensland Audit Office’s 2023 local government report<sup>5</sup> has found that 48 of Queensland’s 77 councils are at a moderate or high risk of not being financially sustainable – up from 46 in 2022 and 45 in the 2021 report. In addition, recent research conducted by the LGAQ<sup>6</sup> has found that councils are paying upwards of \$360 million per year to deliver services that are the responsibility of other levels of government and the private sector.

These constraints and costs being imposed on local governments are untenable, and to protect the ongoing financial sustainability of local governments, measures must be taken to relieve these pressures. Given the intent of the Bill to protect EDQ’s financial sustainability, the LGAQ would see it as appropriate to extend the same consideration to local governments and distributor retailers, whose financial sustainability is currently being compromised by EDQ.

**Recommendation 8:** The LGAQ recommends the State Government supports Queensland councils’ calls to modernise the trunk infrastructure funding system, to minimise impacts on ratepayers and local governments’ financial sustainability.

### 4.2 Need for agreement in establishing funding frameworks

Understandably, not all infrastructure required to service a PDA can be located within that PDA boundary (e.g. sewerage treatment plants). For this reason, it is important that, in addition to EDQ, councils and distributor-retailers also receive a fair share of infrastructure charges revenue from development occurring in PDAs.

Under current practice, in some PDAs, EDQ levies a ‘sub-regional contribution’ to support *some* of this broader infrastructure.

In many instances, positive steps have been taken by EDQ to collaborate with councils in the setting of sub-regional contribution amounts, however, there are no statutory safeguards to ensure this good practice continues moving forward, and good practice can no longer be ‘assumed’.

<sup>5</sup> 2023 Queensland Audit Office Local Government Report – available online [here](#).

<sup>6</sup> LGAQ Cost Shifting Report – available online [here](#).

In addition, while the LGAQ is aware of good practice from EDQ in initially setting sub-regional contribution amounts, these amounts are not indexed annually to reflect rising costs incurred by councils to deliver infrastructure. Hence, councils, and therefore their ratepayers, have been left to 'fill the funding gap' left by EDQ.

It is also important to note that some internal infrastructure within PDAs has no direct funding source (such as community facilities and sports field club houses). In these circumstances, councils are required to take the asset (land) and then pressured to develop the facilities earlier than they otherwise would, with no funding support.

Furthermore, infrastructure funding arrangements may, at surface-level, appear sound in principle, in practice, distributor-retailers (such as Urban Utilities) have seldom received a fair share of funding to support the infrastructure they have invested heavily in.

These complexities, which may not be appreciated by EDQ, underscore the need to collaborate and reach agreement with infrastructure providers before developing infrastructure funding frameworks for PDAs.

Additional complexities which may not be appreciated by EDQ include how infrastructure revenue and expenditure operate in a local government environment.

Local governments seek to responsibly manage their finances, and therefore, construct new or upgraded infrastructure in the most logical, cost-effective way possible. For instance, rather than widening footpaths on an ad-hoc or lot-by-lot basis as and when development applications are approved, a local government will construct these upgrades in an orderly way, such as on a street-by-street basis, when needed.

This allows for the logical development of infrastructure in the most cost-effective way.

Due to this, infrastructure charges collected from a particular development site will not necessarily be spent on infrastructure upgrades immediately surrounding that site. Rather, infrastructure charges revenue will be put in a pool, which is used for infrastructure anywhere within that local government area, as needed and as logical.

In reading the Bill, it would appear this has not been understood or considered. As currently drafted, s117E of the Bill will give the MEDQ the power to require local governments to remit infrastructure charges revenue to the MEDQ, where charges have been received by a local government for a development application lodged before a PDA was declared.

The Explanatory Notes suggest that this new provision has been drafted under the belief that such infrastructure charges should be used to "contribute to the delivery of infrastructure in the PDA" (page 8). However, as explained above, this is not how local government infrastructure funding and delivery works.

Furthermore, it is unclear if, in a situation such as this, a local government would receive any funding for infrastructure required to support a PDA. If infrastructure funds were to be transferred from a council to EDQ, it may leave council with no funding to deliver PDA-supporting infrastructure, therefore imposing additional costs on broader ratepayers.

These complexities further underscore the need to collaborate and reach agreement with infrastructure providers before developing infrastructure funding frameworks for PDAs.

**Recommendation 9:** The LGAQ recommends the State Government reconsider, in consultation with councils and the LGAQ, the proposed amendments through s117D and s117E of the Bill, that would allow for the transfer of infrastructure charges revenue from councils to EDQ.

### 4.3 Funding for infrastructure maintenance

In addition to the up-front cost of delivering infrastructure, it is also important to consider the ongoing costs of maintaining infrastructure, which are borne by councils and their ratepayers.

Throughout Queensland, councils carefully consider their standards of service - to balance the benefits of trunk infrastructure with the costs of its maintenance. This balance helps councils ensure every community is a liveable one, without imposing excessive rates charges on residents. However, this careful balance is threatened by the *Economic Development Act 2012*.

At present and as proposed under the Bill, there is no requirement for EDQ to agree on standards of service for infrastructure before declaring a PDA, preparing a PDA development scheme, or developing a Development Charges and Offset Plan (DCOP).

As a result, the infrastructure delivered in a PDA may exceed the desired standards of service of local government, resulting in higher cost impacts for councils when this infrastructure is 'handed back' to councils to maintain.

**Recommendation 10:** The LGAQ recommends that a requirement be included in the Bill, requiring the MEDQ to consult with, and obtain the agreement of, the relevant local government when establishing:

- an associated infrastructure funding framework for a PDA; and
- standards of service for infrastructure in a PDA.

Local governments' efforts to maintain their financial sustainability will be further complicated by s127 and s128 of the Bill, which amend powers for the MEDQ.

Under s127, the MEDQ is able to direct a local government to accept the transfer of land. This land could either be unimproved (e.g. vacant land) or improved (e.g. land containing EDQ infrastructure). In addition to this power, the MEDQ can direct a local government to provide or maintain infrastructure (s128).

This creates a financial risk whereby councils and distributor-retailers, could be directed to provide infrastructure they have not budgeted for.

The Bill amends existing powers by establishing that the MEDQ must give 20 business days' notice prior to issuing a direction under these sections. However, this is considered to be insufficient time to meaningfully or genuinely engage.

**Recommendation 11:** The LGAQ recommends the Bill be amended to replace the MEDQ's s127 and s128 *directions* powers, with powers that allow the MEDQ to make a *request* for a local government to accept the transfer of land, provide infrastructure or maintain infrastructure *by agreement*.

## 5.0 Operational arrangements

Several operational arrangements, as proposed by the Bill, have also caused concern for the LGAQ and Queensland councils. Key issues raised by council officers in feedback to the LGAQ is consolidated in **Attachment 1** to this submission and the LGAQ implores the State Government to further consider and consult with Queensland councils on these matters prior to finalisation of the Bill and associated subordinate legislation.

**Recommendation 12:** The LGAQ recommends the State Government consider and consult with Queensland councils and the LGAQ on a range of operational matters that



have been identified (refer **Attachment 1**), prior to finalisation of the Bill and associated subordinate legislation.

Of significant concern are the proposed new and expanded direction powers for the MEDQ that are discussed in detail below.

### 5.1 Ministerial direction powers

In particular, the Bill proposes a new directions power for the MEDQ - to direct a government entity, local government, or distributor-retailer to provide information as needed for proper and orderly planning. The Bill also provides that relevant entities must comply with any such direction (Bill s126A).

The Bill does not specifically preclude the MEDQ from requesting information which is council-in-confidence or commercial in confidence, and does not allow a local government or distributor retailer the ability to refuse a request for such information.

In discussing this concern with EDQ after the Bill was introduced, EDQ has confirmed that the Bill does not exempt confidential information from being requested or provided, and that requests would be considered on a case-by-case basis. Understandable, this does not provide councils or distributor-retailers with the confidence or security the need to support the Bill.

Furthermore, in engaging with councils on the Bill, the LGAQ has identified a need to a reciprocal arrangement to be inserted, allowing councils to request information from the MEDQ which is essential for the prudent planning of their local government area.

This reciprocal arrangement will be essential in allowing councils to satisfy their obligations, such as providing accurate flood mapping information to their communities.

**Recommendation 13:** The LGAQ recommends that s126A the Bill be amended to explicitly limit the MEDQ's power to request information which is council-in-confidence or commercial-in-confidence.

**Recommendation 14:** The LGAQ recommends that a reciprocal provision be added to s126A of the Bill, allowing a relevant local government to request information from EDQ necessary for the good governance of their local government area, to the extent that information is not cabinet-in-confidence or commercial-in-confidence.

As identified above, the LGAQ holds several concerns regarding the Bill which could have been addressed through proactive engagement with Queensland councils. These concerns include potential threats to the safety and security of people and property, impacts on local governments' financial sustainability, impacts on Queensland ratepayers, and threats to information security.

The raising of these concerns highlights a need for local governments to be heard by EDQ. This will become increasingly important as EDQ works through new operational arrangements necessitated by the Bill, such as responsibilities for enforcement and compliance with the SEQ Water Supply and Sewerage Design and Construction Code.

To ensure this voice is heard, for the benefit of Queensland communities, it would be prudent for the board proposed under EDQ's new corporate structure, to include a member with significant local government expertise.

**Recommendation 15:** If an independent Board is to be established for EDQ, the LGAQ requests that the terms of reference for the Board ensure local government experience, expertise and interests are represented.

## 6.0 Conclusion

Overall, the LGAQ can appreciate the intent of the *Economic Development and Other Legislation Amendment Bill 2024*. However, we do not believe the economic sustainability of EDQ should come at the expense of local governments' financial sustainability.

In addition, we believe the objectives of the Bill, to deliver more housing, could have been better achieved if EDQ had meaningfully engaged with local governments or acknowledged the consistent calls for reform from the LGAQ. Due to these concerns, the LGAQ cannot support the Bill in its current form, and requests that it be re-drafted in genuine consultation with local governments.

## Attachment 1: Feedback on specific provisions of the EDOLA Bill 2024

Clause	Comment
<p><i>Clause 6</i> <i>New Definitions</i></p>	<p>A mechanism should be established to ensure new social and affordable housing definitions are included in or referred to in future PDA development approvals – and that new definitions overrule provisions referred to in existing PDA development schemes.</p> <p>Clarity is also sought regarding whether existing PDA development schemes will be amended to reflect new requirements established following the Bill. For example, will development schemes including ‘stretch targets’ be updated with minimum requirements for social and affordable housing.</p> <p>In developing definitions, it is also requested that amendments ensure affordable housing criteria enable a range of income cohorts to access affordable housing. Otherwise, developers may limit access to only the highest eligible incomes rather than a range of households who would be eligible. In addition, this needs to consider the diversity of household types, as part of this allocation.</p>
<p><i>Clause 15</i> <i>Clause 15 inserts a new Division 3A to provide the circumstances in which MEDQ can acquire land.</i></p>	<p>It is noted that ‘infrastructure’ is not defined, and therefore, stakeholders cannot be certain what land can be acquired for infrastructure. Therefore, greater clarity is sought regarding what land can be acquired under the Bill.</p>
<p><i>Clause 31</i> <i>Clause 31 introduces a new part (Part 3A) into Chapter 3 providing for MEDQ to make temporary planning instruments.</i></p>	<p>There should be a new requirement introduced, for the MEDQ to consult with the relevant local governments in which a PDA is located, prior to publishing of a Temporary Planning Instrument – to ensure local knowledge is reflected.</p>
<p><i>Clause 31</i> <i>Amendments and extensions to temporary planning instruments</i></p>	<p>Clarity is sought regarding whether it proposed to update the Instrument of Delegations and Directions for MEDQ Delegates to include these new provisions?</p>
<p><i>Clause 33</i> <i>Clause 33 introduces a new section 84G (Consultation) that provides for the MEDQ, in deciding a PDA development application, may consult with any entity in the way they consider appropriate. The MEDQ however, would not be obliged to consult with any entity.</i></p>	<p>The <i>option</i> for the MEDQ to consult should be expanded to <i>require</i> the MEDQ to consult with local governments and distributor-retailers, if a development application has the potential to impact their infrastructure.</p>

<p><i>Clause 35</i> <i>Clause 35 amends section 88 (PDA development conditions) to include provisions related to PDA development conditions. This includes conditions pertaining to the supply of affordable housing or social housing on the relevant land for the PDA development application, as well as the option for the payment of an amount in lieu of providing affordable or social housing.</i></p>	<p>Clarity is sought regarding timeframes for reviewing and amending development instruments to reflect new social and affordable housing requirements.</p> <p>Clarity is also sought regarding whether quantitative measures will be tailored to individual PDAs, and how these measures will be developed.</p> <p>It is considered that the housing criteria should be tailored to specific PDAs, considering feasibility information, and not a standard percentage figure being applied across the board.</p>
<p><i>Clause 36</i> <i>Clause 36 inserts a new section s88A (Use of amounts paid in lieu of supply of social housing or affordable housing).</i></p>	<p>Funds paid to MEDQ in lieu of provision of social housing or affordable housing, should be reinvested back in the local government area in which the approved development is located. If this is not mandatory, funds collected for the provision of affordable housing could be redirected to EDQ and used elsewhere – delivering no benefit to the community in which the PDA is located.</p> <p>In addition, money in lieu should consider escalation costs for construction. At time of payment, there should be a direct link to a proposed project, on an identified site, to be funded to ensure that monies received actually deliver the required number of affordable and or social dwellings required by the initial condition.</p> <p>Furthermore, there is a need to clarify that the conditions can relate to the dedication of land and the development of housing for the identified purposes, and its subsequent transfer to the State or a community housing provider.</p> <p>Should the MEDQ transfer this obligation to land elsewhere in the local government area, there is a need to ensure that the housing is well located and has access to services and would not require additional infrastructure delivery. PDA land will be serviced as a result of the development and the transfer of location should not therefore result in additional infrastructure costs for local government.</p>
<p><i>Clause 36 (related content)</i> <i>Use of term “Affordable by design”</i></p>	<p>It is suggested that a definition of this term (‘affordable by design’) be included and that it does not just include the provision of diverse lot types but diverse housing choices and potentially include alternative tenure arrangements.</p>
<p><i>Clause 38</i> <i>Clause 38 introduces a new chapter, Chapter 3, Part 4A, titled ‘renewal areas’.</i></p>	<p>Clarity is sought regarding what ‘PDA associated land’ is defined as for the purposes of this section.</p>
<p><i>Clause 40</i> <i>Clause 40 establishes a new part 7A titled ‘Housing</i></p>	<p>Clarity is sought regarding how this will work in practice, especially insofar as relevant to development controls that exist outside of a PDA (e.g. planning schemes). Queensland councils</p>

<p><i>agreements relating to priority development areas’.</i></p>	<p>would request to be consulted on this, prior to the development of subordinate legislation, guidance, or practice notes.</p>
<p>Clause 47 <i>Clause 47 updates section 129 (Amendment of s129 (Application fees)) to include provisions relating to associated planning and regulatory costs.</i></p>	<p>Clarity is sought regarding the ability of local governments to charge for on/off maintenance inspections?</p>
<p>Clause 59 <i>Clause 59 amends section 172 (Registers) to include a requirement for MEDQ to keep a register of: each extension to an interim land use plan, place renewal area declarations place renewal area frameworks, temporary planning instruments; and a description of the land to which each housing agreement entered into by MEDQ applies.</i></p>	<p>While this amendment is supported in principle, it is recommended that this Register be available to the public upon request and expanded to include a requirement for the MEDQ to keep a register of the amount of affordable or social housing delivered/conditioned in PDAs.</p>