



Dedicated to a better Brisbane

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24 October 2016

Dr Jacqueline Dewar
Research Director
Infrastructure, Planning and Natural Resources Committee
Parliament House
George Street
BRISBANE QLD 4000
Email: ipnrc@parliament.qld.gov.au

Dear Dr Dewar

Council is pleased to provide a submission on the Cross River Rail Delivery Authority Bill 2016 (the Bill).

Council is supportive of the Cross River Rail (CRR) project and the benefits it will bring to the city, particularly with the opportunity to work together with the Brisbane Metro Subway System project to deliver an integrated public transport system for our New World City.

Council is seriously concerned about the proposal to expand the authority of the Queensland Government in the city's planning. The city is currently experiencing an unprecedented level of Queensland Government planning intervention via the combination of mechanisms including Priority Development Areas (PDAs), State planning regulatory provisions, ministerial call ins and ministerial directions. The city is at risk of becoming a two speed development environment. This approach is not sustainable.

In the event that the Bill proceeds in its current form, Council requests the opportunity to provide further feedback to the Cross River Rail Development Authority (CRRDA) to determine the PDA boundary, development scheme and associated infrastructure planning and an agreed framework to apply to the proposed CRR PDA.

The key points outlined in Council's submission form Attachment A. It is important to note, that this is Council's initial response to the Bill. Given submitters were allowed only eight business days to review, consider and respond to the Bill, Council's response may include further detailed information.

Should you require clarification or any further information about Council's initial submission, please contact Mr Kerry Doss, Manager City Planning and Economic Development, City Planning and Sustainability [REDACTED]

Yours sincerely

A large black rectangular redaction box covering the signature of Colin Jensen.

Colin Jensen
CHIEF EXECUTIVE OFFICER

GENERAL COMMENTS

The Cross River Rail Delivery Authority Bill 2016 (The Bill) represents an unprecedented removal of planning power from the State's largest local government under the guise of a transport infrastructure delivery project. The Bill provides for a high level of state intervention into the city's land use and infrastructure planning and delivery. Council strongly opposes the Bill in its current form and highlights the following key issues:

(1) Unprecedented intervention by the Queensland Government

The Bill contains provision for the establishment of the Cross River Rail Delivery Authority (CRRDA), a commercial entity which will have far reaching and unparalleled power and control to override Council in fulfilling its local government functions, specifically in relation to land use planning and infrastructure planning and delivery.

The purpose of the Bill is to allow for the declaration of a significant Priority Development Area (PDA) and PDA associated development areas and the establishment of a commercial entity to have broad powers to undertake land use planning, acquire land and self-regulate in order to fund the delivery of an infrastructure project. To remove Council from these functions and give such broad powers to a commercial entity who is not accountable to the community, and apply this framework to such a broad part of the city, represents a level of intervention by the Queensland Government previously unwitnessed in the history of the city. The Bill does not require the commercial entity to consult or include Council in any of its activities. The Bill was prepared with the full exclusion of Council and this approach is reflected throughout the Bill, as the commercial entity is not required to consider or consult with Council in any of its dealings.

The broad powers, purpose and elastic scope of the CRRDA are of serious concern. The Bill allows for an unspecified Cross River Rail (CRR) PDA to traverse an extensive corridor and for the CRRDA to indiscriminately acquire land whether that land is required for the CRR facility or not. These powers are too broad and represent a risk to the city's planning and development. A mandate which combines 'facilitation of economic development' in an unrestricted area and for an unrestricted purpose cannot be in the best interests of the city. The community have an expectation that governments of all levels will balance competing interests and resolve in favour of a position which on balance benefits the majority of the community. The CRRDA will make no such considerations, as acting commercially will be a legislative requirement. This approach cannot have blanket application to land use planning and infrastructure planning.

The cumulative declaration of PDAs throughout the city is making it increasingly difficult for Council to undertake planning and infrastructure planning and delivery. There are currently five PDAs within Brisbane's local government area which cover 834 hectares of the city. The proposed CRR PDA will apply over an extensive area and once the PDA is declared it will have an artificial boundary, as the operations of the CRRDA will have no boundaries.

The way in which PDAs are managed in Brisbane (i.e. Minister of Economic Development Queensland's (MEDQ) functions are not delegated to Council under the *Economic Development Act 2012* (ED Act)) makes the integration of planning and infrastructure associated with PDAs extremely difficult to manage. The blurring of jurisdictions across the city creates inefficiencies and many decisions made by Economic Development Queensland (EDQ) results in financial liabilities to Council. The Bill will serve to exacerbate this current situation by giving power to a commercial entity to apply its own planning provisions and standards to an uncontained and unrestricted portion of the city.

(2) Brisbane Metro Subway System (BMSS)

The CRR and the BMSS transport projects are both critical to sustain the growth and development of the city. The benefits to the city would be substantial if the CRR and the BMSS coexisted and functioned as an integrated system. Council requests details of how it is intended to achieve the integration of the projects and for Council to continue to manage the BMSS.

Council urgently requests that the CRRDA's powers and functions be amended in the Bill to exclude the BMSS from being declared as a transport-related project under the control of the CRRDA. The Bill should be amended to ensure that it does not compromise the BMSS project and any other Council public transport, road or active transport that may be impacted by either the CRR project or the CRR PDA. This could be in terms of physical impact on land, access or a reduction in CRR patronage or the potential reduction in the value sharing opportunities of development under the CRR PDA.

It is recognised that there is a role for a specific authority to implement the delivery of a defined transport infrastructure project. It is also recognised that there is a nexus between the CRR project and the associated transport planning. Council considers that an integrated CRR project and BMSS project would represent a transformational change for the city. Both projects are critical to the economic advancement of the city. The challenge for both Council and the Queensland Government is how the projects can be delivered as an integrated project and how the CRRDA and Council can coexist. The mechanism of how these two projects are realised is in a revised CRRDA Bill that allows for both to coexist and complement each other.

Establishment of the proposed CRRDA carries serious implications for Council and ratepayers, across matters including, but not limited to, Council's ability to control or influence development and infrastructure delivery in the city, potential for control of major Council projects to be subsumed by the CRRDA, lack of consultation with Council, loss of infrastructure charges and rates revenue, and additional financial imposts through transfer of unsuitable assets and the need to upgrade existing external infrastructure to accommodate CRR.

(3) Two speed development environment

The proposed CRRDA and CCR PDA represent an amplification of the current EDQ power in the city. The PDAs in the city are increasing and the city is at risk of becoming a two speed development environment. EDQ (and CRRDA) does not operate within the framework of the *Sustainable Planning Act 2009* (SPA), including but not limited to public consultation, capped infrastructure charges, conversion applications and planning submitter appeals. EDQ is able to impose value uplift charges, can operate within a separate infrastructure charging framework, and has no obligation to deliver infrastructure upgrades or redistribute infrastructure charges to Council or Queensland Urban Utilities (QUU) and does not operate within a full planning appeals environment. The PDAs appear to be used to incentivise and attract development at the expense of the remainder of the city. The Bill serves to increase the imbalance of development attraction between PDAs and the remainder of the city, which is not sustainable.

The commentary about the Queensland Government working collaboratively with Council in relation to the PDAs does not match Council's experience of the reality. It is acknowledged that in recent years EDQ have interacted more with Council on PDA matters than previously. However before it could be described as a genuine partnership with Council, it could be argued that EDQ utilise Council periodically as an unfunded technical consultancy service, as technical input is sought by EDQ, but there is no role for Council in the decision making. This does not correlate with the level of MEDQ delegation that other local authorities in Queensland are permitted. Council requests that this imbalance in the management of planning throughout the state be addressed.

The extent of the PDAs combined with the scale and intensity of development the PDAs permit, is potentially diluting the rate of development external to the PDAs. This results in significantly increasing demands on Council's infrastructure networks which are external to the PDAs. It is not reasonable to expect Council to subsidise PDA development while simultaneously being denied access to the infrastructure charges which are derived from the PDA development.

There appears to be a misconception that the PDA developments result in an increase in rateable properties and therefore any additional infrastructure costs incurred by Council are met by increased rate revenue. Council's rates do not meet the cost of trunk infrastructure – infrastructure charges revenue funds trunk infrastructure.

The Bill allows for land which is owned or leased by the CRRDA to be excluded from rateable land. This is highly concerning for Council as the Bill also allows for the CRRDA to charge additional levies and charges (which are not accessible to Council). This mechanism allows for example value uplift to be captured by the CRRDA to supplement the funding of the CRR project. This represents foregone revenue for Council which would be used to provide services across the city.

While the CRR PDA may contribute to development envisaged in Council's *Brisbane City Plan 2014* (City Plan) strategic framework, it diminishes Council's ability to capture charges that would be used to fund infrastructure to support that growth. The PDAs compromise the fundamental strategic planning and infrastructure planning for the city. The proposed CRR PDA is particularly concerning as it allows a commercial entity, CRRDA, to potentially impact significantly on City Plan's implementation.

Council's position regarding infrastructure charge collection and reconciliation in the PDAs has been well documented with EDQ during the last four years. Council remains concerned about the level of investment made by EDQ in PDA areas such as the Bowen Hills PDA (where it is not a land owner) and the correlation between redevelopment and augmentation of the various supporting trunk infrastructure networks. The Bill enables CRRDA to retain funds and does not require CRRDA to recognise the reliance and impacts on the infrastructure networks external to the PDA. As CRRDA will operate as a commercial entity it is highly unlikely to be motivated to redistribute infrastructure charges to Council.

PDAs allow the Minister or delegate, to operate external to the provisions of the SPA. There are numerous examples of PDAs in Queensland which reflect a genuine partnering between the local government and EDQ to enable the redevelopment of specific sites or projects. The ED Act provides for the Minister to delegate functions or powers under the ED Act to for example a local government or a local representative committee. The reason for this approach is that there are benefits for all stakeholders when the local government is permitted to continue in their legitimate roles as a planning and infrastructure delivery authority and assessment manager under the provisions of the ED Act. In Brisbane the Queensland Government is not adopting this approach and it is to the detriment of the city. This Bill, combined with the existing PDAs and proposed PDA at Herston Quarter, constitutes an unjustified exceedance by the Queensland Government into the administration of the city. The city cannot sustain a continuation of this extent and form of Queensland Government intervention in the planning realm.

If the CRR PDA proceeds, it is critical that the Queensland Government and Council take a collective responsibility for finding solutions on how to enable the delivery of the CRR project while simultaneously delivering the BMSS and ensuring that the strategic planning framework for the

city is protected. These responsibilities cannot be removed from Council and left to the vagaries of a commercial entity with broad powers, limited accountability and transparency. It is not acceptable for a commercial entity to assume the planning and infrastructure powers of a local government and for there to be no parameters established as to how that commercial entity is to interact with the local government. The commercial entity's decision will create a financial liability for Council and ratepayers ultimately and the Bill does not oblige CRRDA to reimburse or compensate Council in any form.

(4) Interface between PDAs and areas external to PDAs

The existing PDAs are managed in a way which does not effectively address the numerous interface issues between the PDA and external surrounding areas. Currently PDAs apply to 834 hectares of the city and the disregard that EDQ has for PDA externalities is well documented. The impact of the Northshore Hamilton (NSH) PDA on Kingsford Smith Drive (KSD) exemplifies this issue. The PDA boundary excluded KSD and therefore this artificial delineation absolved EDQ of recognising any impact of the development within the PDA on KSD. Notwithstanding that, KSD represents the only road access into and out of the PDA. It is inarguable that the intensive land uses permitted within the NSH PDA contributed to the need to upgrade KSD. EDQ have made no financial or works contribution to the upgrade of KSD.

The proposed CRR PDA is not contained, is not defined and traverses a substantial geographical part of the city. Therefore the CRR project presents significant opportunity for the current range of interface issues to be amplified, particularly in relation to managing stormwater drainage, transport, open space and community facilities networks.

The Bill reflects a failure to understand the interconnectedness of planning and infrastructure in the city. It is not possible to indiscriminately permit significant deviations to land uses without considering the impacts over the remainder of the city. It is not possible to uncouple land use planning and all infrastructure planning and impacts across the city. The Bill enables and encourages a commercial entity to disregard this fundamental principle in the pursuit of commercial returns to fund a singular transport infrastructure project.

(5) Undermines Brisbane City Plan 2014

The Bill legislates for Council to be extracted from all aspects of the CRR project including the planning and infrastructure jurisdiction of an extensive and undefined part of the city. The CRRDA will have the ability to acquire land, act as a developer, prepare its own planning scheme and make its own planning decisions in respect of its own development projects.

The Bill appears to establish a framework which allows the CRRDA to be at risk of a significant conflict of interest, as the CRRDA will act as a delegate of MEDQ in respect of planning matters affecting the broadly defined CRR project. Council strongly objects to the principle of a commercial entity with no accountability to the community, having the ability to make decisions on an unspecified corridor, which may or may not be related to the CRR project, at the expense of the remainder of the city.

The commercial entity will be able to operate without having any regard to planning outcomes, community expectations or impacts on parts of the city which are external to the undefined CRR PDA. The Bill enables a commercial entity to expedite the delivery of an infrastructure project and to derive funding for that project by indiscriminately manipulating land use planning on a broad scale. This is a high risk funding approach, as it makes a trade off between the city's planning and profit.

The recently prepared City Plan involved the single largest planning review undertaken in over a decade by Council with extensive community consultation and Queensland Government scrutiny. It reflects and enunciates the blue print for the city's future. There is no compelling argument contained in the Bill's explanatory notes to justify why a commercial entity should be given the capacity to make unrestricted changes to City Plan principles and community expectations across such a widespread section of the city.

SPECIFIC COMMENTS

The following table outlines specific comments on key provisions of the Bill.

No.	Part/Division/Clause	Comment	Recommendation
1.	Part 1 Division 2 Clause 3	<p>The purpose of CRRDA is to plan, carry out, promote or coordinate activities to facilitate economic development, and development for community purposes, in a CRR PDA and to facilitate the efficient delivery of the CRR project and transport-related projects. The functions and powers of CRRDA are broad and also allow the MEDQ to delegate function or power under the ED Act.</p> <p>The CRRDA will be a commercial entity with extensive planning and acquisition powers applicable to a significant geographical portion of the city. CRRDA's power is not confined to enable the delivery of a transport infrastructure project, but extends into a broader area of planning in the</p>	<p>Council seeks to have the Bill amended to ensure that City Plan's strategic intent is not compromised by the CRR PDA.</p> <p>Council seeks to have the Bill amended to mandate Council input and consultation, including the broader consultation with the broader community.</p>

No.	Part/Division/Clause	Comment	Recommendation
		<p>city. This blurs the boundaries and responsibilities in planning in the city. It is not considered in the best interest of the city to create a commercial entity to seriously jeopardise the implementation of City Plan.</p> <p>The Bill allows for an unspecified corridor to be excluded from Council's planning jurisdiction and this may exacerbate the current level of disconnect which results from the management of the existing PDAs.</p> <p>The undefined CRR PDA has potential to absorb a significant amount of development opportunity, undermine City Plan's strategic framework and quarantine infrastructure charges to the project only. The Bill does not require CRRDA to utilise infrastructure charge revenue to be expended in the delivery of trunk infrastructure required to support the PDA development.</p> <p>The Bill does not provide any detail on consultation processes and mechanisms that may allow Council and the community to have input to a regulation made under the Bill.</p>	<p>Council seeks to have the Bill amended to.</p> <ul style="list-style-type: none"> • Revise the definition of the CRR project so that it is limited to the CRR transport facility. • Limit CRRDA to matters associated with a revised definition of the CRR project. • Include the local government as the delegate for all matters relating to land use and infrastructure planning and development assessment. • Include that the local government is to receive all infrastructure charges collected for the local government infrastructure networks to support the delivery of trunk infrastructure within or external to the PDA. <p>Council requests the Bill be amended to ensure that it does not compromise the BMSS project and any other Council public transport,</p>

No.	Part/Division/Clause	Comment	Recommendation
			<p>road or active transport that may impact either the CRR project or the CRR PDA in terms of physical impact on land or access or may reduce CRR patronage or potentially reduce the value sharing opportunities of development under the CRR PDA.</p>
2.	<p>Part 1 Division 1 Clause 3 (2)</p>	<p>The Bill provides for the continuation of CRRDA until the CRR project and any transport-related projects are completed.</p> <p>Council's experience with the existing PDAs is that EDQ does not require assets to comply with Council's standards, or other acceptable standards. As a result, Council is required to accept transfer of assets which have associated higher maintenance costs, less life cycle, higher replacement costs and are not fit for purpose.</p>	<p>Council seeks to have the Bill amended to identify the ultimate asset owner for various infrastructure types. Where Council is identified as the ultimate asset owner, CRRDA should be required to construct those assets in compliance with Council standards.</p>
3.	<p>Part 1 Division 1 Clause 4</p>	<p>The Bill provides that CRRDA must have regard to any planning instrument that applies to the land on which a transport-related project is proposed.</p>	<p>For transport related projects, a commercial entity recognising City Plan is no guarantee is that the City Plan's land use, building height and form, yields, community engagement and infrastructure standards would be complied with or in accordance with the plan's intent. It is considered a fundamental conflict that CRRDA will be able to acquire land and also assess the impacts associated with</p>

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			<p>the development on the land.</p> <p>Council seeks to have the Bill amended to the following.</p> <ul style="list-style-type: none"> • Revise the definition of the CRR project so that it is limited to the CRR transport facility. • Limit CRRDA to matters associated with a revised definition of the CRR project.
4.	Part 1 Division 2 Clause 6 (1) and (2)	<p>The Bill references the CRR project described in the Coordinator-General's report for the Environmental Impact Statement dated December 2012, under the <i>State Development and Public Works Organisation Act 1971</i> and any Coordinator-General's change report for the project. The project also includes any development in a CRR PDA, any PDA-associated development and any transport-related project.</p> <p>The CRR project version referenced in the Coordinator-General's report relates to a corridor from Salisbury to the Exhibition grounds. It is understood that the project has changed since the Environmental Impact Statement was undertaken. It is not possible for Council to comment fully on the Bill in the absence of details of the current project.</p> <p>All development in the PDA area is included unless specifically excluded</p>	<p>Council requests sufficient detail on both the CRR project and the proposed CRR PDA to enable an understanding of the potential impacts.</p> <p>Council requests to be consulted in the determination of the extent of the project and the CRR PDA.</p> <p>The ability to exclude development from the definition of the PDA will create uncertainty for landowners in the area.</p>

No.	Part/Division/Clause	Comment	Recommendation
5.	Part 1 Division 2 Clause 7	<p>by definition in the regulation.</p> <p>A transport-related project may be prescribed if it involves providing transport infrastructure in South East Queensland, other than on land that is either in a CRR PDA or PDA-associated land for a CRR PDA and the Minister is satisfied it relates to the operation of rail transport infrastructure provided, or to be provided, as a result of the CRR project. Projects are to be prescribed by regulation, however, the full extent of these projects is not likely to be known until after CRRDA is established.</p> <p>As the BMSS may impact any aspect of CRR or the associated PDA (land, patronage, bus service plans, development potential etc.) and the BMSS is prescribed under legislation, the project could potentially be included in for delivery by CRRDA, which may result in it being substantially changed, deferred until after CRR is constructed or even deferred indefinitely. This is not in the best interests of the city and an integrated public transport system.</p>	<p>Council seeks to have the Bill amended to ensure that the BMSS project is excluded from CRRDA functions and power.</p> <p>Considering the significant uncertainty associated with the extent and nature of the transport-related project, it is not possible to understand or comment on the Bill in full. More detail must be provided before the Bill is passed.</p>
6.	Part 2 Division 2 Clause 12 and Part 9 Division 2 Clause 78	<p>The functions and powers of CRRDA are extensive and include, in addition to the Bill, powers and functions under the ED Act.</p>	<p>Refer general comments listed above.</p>
7.	Part 2 Division 2 Clause 13	<p>CRRDA's functions ensure that it operates as a commercial, for profit, entity which acts commercially and competes in a market.</p>	<p>Council seeks to have the Bill amended to ensure that CRRDA will not have broad powers over an undefined but significant portion of the city. This will ensure that the CRRDA will be subject to the checks</p>

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8.	Part 2 Division 3 Clause 20	<p>CRRDA has land acquisition powers under the <i>Acquisition of Land Act 1967</i>.</p> <p>The Explanatory notes state <i>"While most of the Cross River Rail project will be undertaken on State-owned land, there may be a need to acquire property rights for works underground, and to create economic development precincts for major clusters to be commercially viable.... The Authority can deal in any land and other property in any areas which will help it to fulfill its functions. This clause is not limited to the CRR PDA since, for example, it may be useful to buy or lease land in nearby areas on commercial terms or fulfill the economic development aspects of the CRR project...."</i></p> <p>The CRRDA will be able to use acquisition powers to take additional land to what is required for the project without the permission of the owner or the requirement that the remnant land be rendered useless. This allows the ability for significant land banking for future sale and development for purposes unrelated to the project. The CRRDA will be able to resume land solely for the purposes of disposing of it.</p> <p>The CRRDA power may potentially be used to deny Council access to the busway asset, on State-owned land, for the BMSS project.</p> <p>Land resumed or owned by the CRRDA would be exempt from rating.</p>	<p>and balances the community expect.</p> <p>The ability of CRRDA to indiscriminately acquire property to create development precincts is not supported by Council as it does not offer any requirement to align strategically with City Plan. Furthermore the Bill provides the opportunity for a significant conflict of interest to occur through the combination of allowing the CRRDA to (1) act as a delegate of MEDQ, (2) have extensive acquisition powers and (3) act as a commercial development entity. Council does not support this combination of powers and its widespread and undefined application.</p> <p>Council seeks to have the Bill amended to ensure that CRRDA will not have broad powers which have the potential to have far reaching consequences for the city.</p> <p>The amendments to the Bill should ensure compliance with standard resumption procedures contained in</p>

No.	Part/Division/Clause	Comment	Recommendation
			<p>the <i>Land Acquisition Act 1967</i> and the requirement for acquisition to relate only to a redefined CRR project i.e. not extended to sites extraneous to the CRR facility.</p> <p>Council seeks to have the Bill amended to ensure that any land owned by the CRRDA which is not directly related to the CRR facility is to be considered as rateable land.</p> <p>Council seeks to have the Bill amended to ensure that CRRDA does not have the ability to impact adversely on the delivery of Council services and infrastructure, particularly where it relates to Council owned land or land Council holds in trust.</p>
9.	Part 6 Clause 59 and 60	<p>A CRR Delivery Fund is to be established which is administered by CRRDA and does not form part of the consolidated fund. The amounts received by CRRDA for carrying out a function or exercising a power as a delegate of the Minister EDQ under the ED Act may be retained by the CRRDA.</p> <p>The Bill does not require the charges collected in the PDA to be expended on infrastructure in the PDA or in the general geographical area of the</p>	<p>Council seeks to have the Bill amended to require that the infrastructure charges collected in the proposed CRR PDA be redistributed to Council (and QUU) to recognise that the infrastructure charges collected for the city are to be expended on priority</p>

No.	Part/Division/Clause	Comment	Recommendation
		<p>PDA. Therefore the infrastructure charges which are collected by CRRDA could be utilised for other purposes. In this scenario, there is increased demand on Council to fund infrastructure upgrades required for the PDA, but without the funds from the PDA.</p>	<p>infrastructure.</p> <p>Council seeks to have the Bill amended to require that the CRRDA compensate Council for any impacts the CRR project may have on Council's assets to ensure that the CRR project does not result in any financial liability to Council.</p>
10.	Part 8 Clause 69	<p>The <i>Queensland Heritage Act 1992</i>, section 71 applies to the proposed development for the CRR project or a transport-related project.</p> <p>It is noted that these powers currently apply to a 'transport-related project'. Council does not support this provision which allows more State and local heritage sites to be potentially compromised or removed where the broadly described CRR project applies. Therefore it is not possible to gauge which sites may be impacted by applying the <i>Queensland Heritage Act 1992</i> section 71.</p>	<p>Council seeks to have the Bill amended to remove this provision, as there is insufficient detail relating to the geographic area that these provisions would apply. The provision is too broad.</p>

