

CHAPTER EIGHT

POLICY AND LEGISLATIVE FRAMEWORK



CHAPTER 8

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CHAPTER SUMMARY AND CONCLUSIONS:

- Procurement of the CRR Project will be undertaken in accordance with the Queensland Procurement Policy and the Queensland Government's Project Assessment Framework.
- The estimated full-time equivalent (FTE) direct and indirect employment sustained by the delivery of the CRR Project is 1,547 jobs per year, on average, during construction. The projected employment peaks at 2,932 jobs during construction.
- The estimated direct and indirect employment generated during the operations phase of the CRR Project is 576 FTEs per year, on average, over the 30-year assessment period. The projected employment peaks at 1,255 jobs during operation.
- The Queensland Government's Building and Construction Training Policy and the Queensland Charter for Local Content are applicable to the CRR Project as it progresses to procurement and delivery phases.
- The Building and Construction Training Policy requires at least 10 per cent of the total labour hours be undertaken by apprentices or trainees and through other workforce training.
- Local industry will be provided with full, fair and reasonable opportunities to tender for work on the CRR Project, according to the Queensland Charter for Local Content.
- Fare pricing is an important consideration for the CRR Project. The Queensland Government's Fairer Fares package was implemented on 19 December 2016, after the CRR Detailed Business Case 2016 had been finalised. By delivering cheaper fares and a reduced number of travel zones, the scheme increases the need for the CRR Project by boosting public transport demand.
- Legislative issues pertaining to planning approvals, environmental legislation, industrial relations, rail safety and accreditation, property, native title and cultural heritage have been considered.
- The review determined that the Reference Project can be delivered within the existing legislative framework in Queensland.



8.1 Purpose and Overview of this Chapter

The purpose of this chapter is to identify any relevant agency or whole-of-government policy considerations that may impact the CRR Project and assess and compare potential impacts on the Reference Project, where appropriate.

This chapter outlines policies relevant to the CRR Project, specifically relating to:

- employment, including building and construction training
- procurement, including local industry participation
- fare pricing
- alternative funding and financing
- energy management and carbon emissions.

This chapter also describes the legislative framework that applies to the CRR Project.

8.2 Whole-of-Government Policy Considerations

8.2.1 Employment and Training

The CRR Project will generate employment and industry development opportunities during the construction, and operations phases of the project. Table 8.1 presents the estimated full-time equivalent (FTE) employment provided by the CRR Project. The data represents the sum of direct and indirect employment.

PHASE	AVERAGE FTES PER ANNUM	PEAK FTES
Construction phase (2015–16 to 2023–24)	1,547	2,932
Operational phase (2024–25-2053–54)	576	1,255

Table 8.1: Average Number of Direct and Indirect Jobs Generated by the CRR Project per Annum (FTEs)

During the implementation phase, highly skilled personnel will be required to design, construct and commission the CRR Project, ensuring its effective integration with the SEQ rail network.

Advanced technology employment opportunities – for example, installing new generation signalling in the CRR tunnel – will open up opportunities for further business investment within SEQ. Developing and implementing recruitment and training processes will be integral to the start-up of the CRR systems and operations. Training will include a combination of system knowledge, specific skills and safety training, as well as technical training such as vehicle-specific maintenance, driver and station staff training. The level and types of training will be in accordance with the procedures and requirements of Queensland Rail.

8.2.2 Queensland Procurement Policy

The Queensland Procurement Policy (QPP) is the government’s overarching policy for the procurement of goods and services, including construction. Its purpose is to deliver excellence in procurement outcomes for Queenslanders.

The QPP and the Queensland Government’s Project Assessment Framework (PAF) are complementary documents and are closely aligned. The PAF directs users to the QPP in the first instance and then supplements that with guidance on how the QPP is applied within the various stages of the PAF.



Procurement of the CRR Project will be undertaken in accordance with the QPP and delivery agency procedures as they apply at the time the project enters the procurement stage. Procurement activities will be designed to:

- extract the best commercial value from procurement transactions
- effectively manage risk
- ensure probity, transparency and accountability for outcomes.

More detailed discussion of the QPP, as it relates to transparency and accountability, is provided in Chapter 9: Public Interest Considerations.

Further detail regarding the delivery strategy for the CRR Project can be found in Chapter 14: Implementation Plan.

8.2.3 Queensland Government Building and Construction Training Policy

The Queensland Government Building and Construction Training Policy supports the Queensland Government's commitment to job creation and lowering unemployment by prioritising more apprenticeships and traineeships for Queenslanders. It also aligns with the Queensland Government's commitment to increasing the economic independence of Aboriginal and Torres Strait Islander people.

The training policy replaces the Queensland Government Building and Construction Contracts Structured Training Policy and the Indigenous Employment Policy for Queensland Government Building and Civil Construction Projects. A core requirement is that a minimum of 10 per cent of the total labour hours on eligible projects is to be undertaken by apprentices or trainees and through other workforce training. All Queensland Government departments and statutory bodies, as defined in the *Financial Accountability Act 2009*, are required to comply with the training policy.

The policy applies to eligible Queensland Government building and civil construction projects throughout Queensland. It supports employment opportunities and skills development in Queensland's building and construction industry. The training policy also focuses on increasing the economic independence of Aboriginal and Torres Strait Islander people in the industry in Queensland. Eligible projects are Queensland Government building projects with a contract sum of \$500,000 or greater (including GST), and civil construction projects with a contract sum of \$3 million or greater (including GST). From 1 July 2015, all building and civil construction projects with a contract sum above \$20 million (including GST) tendered by government-owned corporations also became eligible projects.

8.2.4 Local Industry Participation

The Queensland Government is committed to delivering genuine opportunities for Queensland businesses by giving them full, fair and reasonable opportunities to tender for infrastructure and resource-based projects and major procurements in Queensland.

Accordingly, the CRR Project procurement documentation will incorporate the government's expectations⁵⁰ that proponents will:

⁵⁰ As outlined in the Queensland Charter for Local Content.



- recognise that involving local industry in projects and capital asset acquisitions provides economic benefits to all parties and is crucial to the long-term development of a strategic manufacturing and service capability
- ensure that Queensland and Australian suppliers, contractors and manufacturers are given full, fair and reasonable opportunities to tender and participate in all stages of projects and acquisitions, subject to the Queensland Charter for Local Content
- apply the principles of achieving value for money in government procurement as described in the Queensland Procurement Policy
- work in partnership with regional communities to develop industry capability and capacity and secure broader economic and societal benefits, as appropriate
- build transparency into their local content policies, processes and criteria to ensure clarity
- comply with Australia's international obligations, including those under free trade agreements⁵¹.

This will ensure that investing in the CRR Project provides opportunities for local industry, where possible, without adverse effects on cost, quality or timeliness.

8.2.5 Alternative Funding and Financing

The State Infrastructure Plan 2016 (SIP) identifies the importance of effective funding and financing options for infrastructure (in Part B: Program).

Through the SIP, the Queensland Government commits to:

- developing and implementing a value capture/sharing policy
- improving the Queensland Government's capability to apply value capture to infrastructure project development and delivery
- piloting new value capture models
- incorporating value capture into major infrastructure proposals as part of business case development, in conjunction with Building Queensland
- increasing awareness of value capture through research and stakeholder events.

Regarding alternative funding and financing options, the Queensland Government commits to:

- improving the Queensland Government's capability to apply alternative finance and funding methods to infrastructure project development and delivery
- considering arrangements to facilitate private investment, including interaction with private sector participants and, if appropriate, establishing a panel
- incorporating alternative funding and financing approaches into major infrastructure proposals, in conjunction with Building Queensland

⁵¹ Queensland is currently a party to three international agreements that impact on procurement:

- Australia-New Zealand Government Procurement Agreement
- Australia-United States Free Trade Agreement
- Australia-Chile Free Trade Agreement.



- working with local government and the private sector to investigate alternative infrastructure funding and financing options, including superannuation funds and infrastructure bonds.

To inform the policy development process, alternative and innovative funding options to deliver state infrastructure were discussed at the Exploring Value Sharing in Queensland symposium in Brisbane in March 2016. The symposium engaged stakeholders in exploring the benefits of alternative and innovative funding models, including value capture, and examined local, national and global case studies. A formal value capture/sharing policy has not yet been adopted by the Queensland Government.

The suitability and potential for alternative funding of the CRR Project will be better understood following further analysis by the CRRDA of delivery model options and the finalisation of a Queensland Government value capture/sharing policy.

8.2.6 Ticketing and Fare Pricing

Over the past decade Brisbane public transport fares have been high by Australian and international standards (particularly when service frequencies are taken into account). Prices were increased by 15 per cent in January 2012, 7.5 per cent in January 2013 and a further 7.5 per cent in January 2014. The higher ticket prices reduced demand and slowed patronage growth.

In August 2015, the Queensland Government appointed a Fare Review Taskforce to review the existing fare structure for public transport in SEQ and design a fare path strategy that promotes fairness, addresses affordability and grows patronage. Examining the existing fare structure holistically, the taskforce provided options to increase patronage, ensure value for money for users and government, reduce revenue leakage, simplify the network and continue to encourage take-up of *go* cards.

On 12 June 2016, the Queensland Government announced its new Fairer Fares package in response to the review. It reduced the number of travel zones from 23 to eight and reduced fares for most commuters between four and 34 per cent per trip. The off-peak discount was extended from 3am to 6am. The new fare pricing structure commenced on 19 December 2016. Fairer Fares has contributed to an increase of over 500,000 trips across the public transport network in the last year⁵².

Further detail on the implications of the Fairer Fares package for the CRR Project can be found in Chapter 6: Project Benefits, Chapter 7: Economic Analysis and Chapter 13: Value Creation and Sharing Assessment.

8.2.7 National Greenhouse and Energy Reporting

Private vehicles are a major contributor to greenhouse gases in Queensland. The CRR Project is expected to improve the state's overall energy efficiency and reduce air pollution by encouraging more people to use the train, rather than their cars, as train services are improved. This issue is explored further in Chapter 3: Problem.

The largest portion of Queensland Rail's carbon emissions arise from the supply of traction electricity to the electric train fleet. Queensland Rail manages energy efficiency by:

- modelling and refining train movements, including energy use, to optimise the on-time delivery of services while keeping service costs to a minimum
- utilising regenerative braking on a number of trains to feed electricity back into the traction network

⁵² Queensland Government TransLink Tracker, January-March 2017



- investing in new generation rollingstock with lower energy consumption.

8.3 Cross River Rail Delivery Authority

The *Cross River Rail Delivery Authority Act 2016* (Qld) (CRRDA Act) commenced on 14 April 2017. The CRRDA Act establishes the CRR Delivery Authority (CRRDA) and provides mechanisms to facilitate the efficient delivery of the CRR Project and transport-related projects.

8.4 Planning Approvals Processes

8.4.1 Initial Advice Statement

The Queensland Coordinator-General declared 'the CRR project, as defined in the Initial Advice Statement dated 16 February 2010, to be a significant project for which an Environmental Impact Statement (EIS) is required' by gazette notice dated 26 March 2010. Through amendments to the *State Development and Public Works Organisation Act 1971* (Qld) (SDPWO Act), the CRR Project is now a 'coordinated project'.

8.4.2 Coordinator-General Evaluation Report and Change Report

The Coordinator-General released an evaluation report for the CRR Project 2011 on 20 December 2012, recommending that it proceed subject to a number of conditions.

By request for project change dated February 2017, the proponent requested that the Coordinator-General evaluate changes (as discussed in Chapter 1: Project Background) to the project and to the conditions of the project. The request for project change was publicly notified from 25 February 2017 to 27 March 2017, and then extended from 3 April 2017 to 21 April 2017.

The Coordinator-General evaluated the proposed changes by the CRR Project: Coordinator-General's Change Report (Change Report), dated 8 June 2017. The Change Report approved the changes to the project, and amended the imposed, stated and recommended conditions based on those changes.

8.4.3 Priority Development Areas

The Reference Project intersects the Woolloongabba priority development area (PDA) and the Bowen Hills PDA, which are declared under the *Economic Development Act 2012* (Qld) (EDA Act), however they do not restrict development of the transport infrastructure. The CRRDA Act also makes provision for CRR PDAs to be declared.

8.4.4 Environment Protection and Biodiversity Conservation Act

In July 2017, the Australian Minister for the Environment and Energy has determined that the Reference Project was 'not a controlled action'. This means that the proposed action does not require further assessment and approval under the Environmental Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) before it can proceed.

8.5 Industrial Relations and Work Health and Safety Issues

During the construction phase of the CRR Project, the Queensland Government will contract specialised rail infrastructure, construction and tunnelling companies to build the works. These contractors are likely to be privately operated companies falling under the Australian Government employment regime. Depending on the contractor, there may also be federal and state government safety-related implications.

Provided the relevant contractor is engaged as Principal Contractor for the purposes of the work health and safety legislation, that contractor will bear the primary obligations to ensure the CRR Project is constructed



safely and in accordance with good practice. Under the relevant contract, the contractor would also ordinarily engage relevant personnel and bear the ongoing employment and industrial risks, including delay, during this phase. The Queensland Government would, however, continue to hold obligations with respect to health and safety, as they cannot be delegated to another party. This includes an obligation to consult, cooperate and coordinate with other parties who are responsible for health and safety duties in relation to these matters.

8.6 Rail Safety and Accreditation

On 28 February 2017, the Queensland Parliament passed the *Rail Safety National Law (Queensland) Bill 2016* (Qld). The effect of this is that from 1 July 2017, the Rail Safety National Law (RSNL), which is set out in the schedule to the *Rail Safety National Law (South Australia) Act 2012* (SA), applies in Queensland. The Office of the National Rail Safety Regulator is responsible for accrediting rail infrastructure managers and rollingstock operators under the RSNL.

The party carrying out 'railway operations' (which includes both construction and operation of railways) will need to be accredited in accordance with the process in the RSNL. The contracts for any railway operations will need to be carefully prepared to ensure that:

- the Principal Contractor has management and control over the workplace on which any physical works are carried out
- the construction of new rail infrastructure will be undertaken under the control and management of a person with suitable accreditation
- Queensland Rail maintains effective control and management of the existing rail infrastructure and rollingstock (which will likely necessitate variations to its existing accreditation).

8.7 Land Acquisition

8.7.1 Authority to Acquire Land

The CRRDA can negotiate to purchase land required for the CRR Project or compulsorily acquire land (including subsurface land) under the CRRDA Act.

The CRRDA Act also provides that the CRRDA is a constructing authority under the *Acquisition of Land Act 1967* (Qld) (AL Act) and can therefore take land for purposes relating to transportation under the AL Act, provided the purpose comes within a function of the CRRDA. The process to be followed when compulsorily acquiring land is the process set out in the AL Act. If the land is compulsorily acquired, a person with an interest in the land is entitled to claim compensation.

8.7.2 Compensation for Acquisition of Land

Compensation is also assessed under the AL Act. Compensation is payable to a person with an interest in the land as at the date the land (or part of the land) is resumed. The concept of an 'interest' in land is interpreted broadly and it covers, for example, owners, lessees, licensees, easement holders and mortgagees of the land. Chapter 5: Reference Project describes the specific property impacts associated with the Reference Project.

8.7.3 Native Title

Native title assessment of the CRR Project will be required if the assessment is that native title may continue to exist within any part of the CRR Project area, and the applicable provisions of the *Native Title Act 1993* (Cth) will need to be followed.



8.8 Approvals

Table 8.2 contains a list of regulatory approvals that may be required for construction, delivery and operation of the Reference Project. For many approvals, whether or not the approval is required will depend on the particular activity or land on which the project is carried out. This list is not exhaustive, and will be refined as the project progresses.

APPROVAL	DESCRIPTION
EIS change report	Request for the Coordinator-General to assess proposed changes to the previous CRR Project subject to outcomes of the Procurement Process.
<i>Transport Infrastructure Act 1994</i> (Qld)	Approval required for works on or interfering with a state government-controlled road or rail corridor land.
Rail safety and accreditation	Approvals required under the RSNL.
Cultural heritage management plan	Required under Part 7 of the <i>Aboriginal Cultural Heritage Act 2003</i> (Qld).
<i>Environmental Protection Act 1994</i> (QLD) (EP Act)	Approvals are likely to be required for environmentally relevant activities, depending on specific activities for construction.
Soil disposal permit for contaminated soil	Permits will be required under the EP Act for the removal and disposal of soil from a place listed on the Environmental Management Register.
Development approvals	Development approvals under the <i>Planning Act 2017</i> (Qld) may be required. Planning scheme approvals are unlikely to be required as the Reference Project is development for transport infrastructure that is government-supported transport infrastructure, which cannot be made assessable by a local planning instrument.
<i>Queensland Heritage Act 1992</i> (Qld)	Development by the Queensland Government on a registered heritage place.

Table 8.2: Approvals Matrix

