



# Building Queensland Bill 2015

**Report No. 4, 55<sup>th</sup> Parliament**

**Infrastructure, Planning and Natural Resources Committee**

**September 2015**

## **Infrastructure, Planning and Natural Resources Committee**

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### **Acknowledgements**

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## Chair's foreword

This report presents a summary of the Infrastructure, Planning and Natural Resources Committee's examination of the Building Queensland Bill 2015.

The committee's task was to consider the policy outcomes to be achieved by the legislation, as well as the application of fundamental legislative principles, including whether it has sufficient regard to rights and liberties of individuals and to the institution of Parliament.

On behalf of the committee, I thank the organisations that lodged written submissions on the Bill and others who informed the committee's deliberations.

I would also like to thank the departmental officials who briefed the committee; the committee's secretariat; and the Technical Scrutiny of Legislation Secretariat.

I commend the report to the House.



Jim Pearce MP  
**Chair**

September 2015

## Abbreviations

ACA	Australian Constructors Association
the Board	the Building Queensland Board
FLPs	fundamental legislative principles
LGAQ	Local Government Association of Queensland
LSA	<i>Legislative Standards Act 1992</i>
PAF	Project Assessment Framework
PC	Productivity Commission
PPP	public private partnership
QCA	Queensland Competition Authority
QPC	Queensland Productivity Commission
UDIA	Urban Development Institute of Australia

## Recommendations

**Recommendation 1** **2**

The committee recommends the Building Queensland Bill 2015 be passed.

**Recommendation 2** **12**

The committee unanimously recommends the Bill be amended to require that Building Queensland publish the infrastructure pipeline document after providing six monthly updates to the Minister.

**Recommendation 3** **14**

The committee unanimously recommends the Bill be amended to provide for timely public reporting of Ministerial directions to Building Queensland.





# 1 Introduction

## 1.1 Role of the committee

The Infrastructure, Planning and Natural Resources Committee (the committee) was established by the Legislative Assembly on 27 March 2015 and consists of government and non-government members.

The committee's areas of portfolio responsibility are:

- Transport, Infrastructure, Local Government, Planning and Trade, and
- State Development, Natural Resources and Mines.<sup>1</sup>

## 1.2 The referral

Section 93 of the *Parliament of Queensland Act 2001* provides that a portfolio committee is responsible for considering:

- the policy to be given effect by the Bill, and
- the application of the fundamental legislative principles to the Bill.

On 19 May 2015, the Building Queensland Bill 2015 (the Bill) was referred to the committee for examination and report. The Legislative Assembly fixed the committee's reporting date of 1 September 2015.

## 1.3 The committee's inquiry process

On 21 May 2015, the committee called for written submissions by placing notification of the inquiry on its website, notifying its email subscribers and sending letters to a range of stakeholders. The closing date for submissions was 24 June 2015. The committee received thirteen submissions (see Appendix A).

On 3 June 2014, the committee held a public briefing with the Department of Infrastructure, Local Government and Planning (the department). On 17 August 2015 the committee held a public hearing in Brisbane (see Appendix B for a list of witnesses).

Copies of the submissions, the department's response to submissions, and transcripts of the public briefing and public hearing are available from the committee's webpage.<sup>2</sup>

## 1.4 Policy objective of the Bill

The policy objective of the Bill is to establish an independent statutory advisory body called Building Queensland. It is proposed that Building Queensland will:

- provide independent expert advice to government about infrastructure in Queensland
- develop a robust and transparent framework for assessing infrastructure projects
- evaluate proposals for new and existing infrastructure
- assist or lead the preparation of certain business cases for infrastructure proposals
- prepare an infrastructure priority pipeline document
- lead the procurement and delivery of projects only when directed to do so by the Minister, and

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<sup>1</sup> Schedule 6 of the *Standing Rules and Orders of the Legislative Assembly*, effective from 31 August 2004 (amended 17 July 2015).

<sup>2</sup> See [www.parliament.qld.gov.au/ipnrc](http://www.parliament.qld.gov.au/ipnrc). All hyperlinks in this Report were accessed on 24 August 2015.

- publish information and promote public awareness.<sup>3</sup>

### **1.5 The Government's consultation on the Bill**

The explanatory notes state that there was no community consultation on the Bill as the bill implements a clear election commitment.

The explanatory notes also state that briefings were provided 'to key stakeholders to receive verbal feedback and to facilitate more informed written feedback.'<sup>4</sup>

### **1.6 Should the Bill be passed?**

Standing Order 132(1)(a) requires the committee to determine whether to recommend the Bill be passed.

The committee supports the Bill and recommends that it be passed. The committee also recommends two amendments be made to the Bill. The proposed amendments are discussed in Section 3 of this report.

#### **Recommendation 1**

The committee recommends the Building Queensland Bill 2015 be passed.

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<sup>3</sup> Explanatory notes, p 1.

<sup>4</sup> Ibid, p 3.

## 2 Policy and organisational context of the Bill

### 2.1 Introduction

The establishment of Building Queensland was announced during the election campaign. The policy stated that Building Queensland would provide independent, expert advice on infrastructure priorities, based on rigorous cost-benefit analysis and community benefits.<sup>5</sup>

To give further context to the Bill, some recent infrastructure reports and initiatives about infrastructure are summarised in section 2.2 below. Section 2.3 provides an overview of Commonwealth and State bodies with an interest in infrastructure, and information about the inter-relationship between organisations.

### 2.2 Recent infrastructure reports, policies and plans

#### 2.2.1 Productivity Commission report – Public Infrastructure

The Australian Productivity Commission report on its inquiry into public infrastructure was released in July 2014. The inquiry terms of reference included examination of costs, competitiveness and productivity in providing infrastructure. The inquiry report recommended changes by the Australian and State governments on issues including governance, planning and procurement, cost-benefit analysis, funding and financial arrangements, planning and procurement.<sup>6</sup>

One of the Productivity Commission's recommendations was that 'all governments should commit to subjecting public infrastructure investment proposals above \$50 million to rigorous cost-benefit analyses that are publicly released and made available for due diligence by bidders. In general, analyses should be done prior to projects being announced.'<sup>7</sup> The Bill provides for the development of business cases, including cost-benefit analyses, and for public release of information.

#### 2.2.2 Australian Infrastructure Audit

On 22 May 2015 Infrastructure Australia released the *Australian infrastructure audit: our infrastructure challenges*. Infrastructure Australia (see section 2.3 below) has invited submissions on the audit report, which closed in mid-August 2015. Infrastructure Australia will develop a fifteen year Australian Infrastructure Plan, informed by stakeholder feedback.<sup>8</sup>

#### 2.2.3 Proposed State Infrastructure Plan

A State Infrastructure Plan is proposed to be released in 2016. A consultation paper, *Delivering an infrastructure plan for Queensland: directions paper* (Directions Paper), was released on 11 June 2015, and invited comments by 1 July 2015. A draft plan is proposed to be released for consultation in late 2015, before release of a final plan in early 2016. The first annual update of the State infrastructure Plan is proposed for mid-2017.<sup>9</sup>

The Directions Paper states that a State Infrastructure Plan will cover three elements:

- *infrastructure objectives*: why infrastructure is important
- *future infrastructure directions*: how Queensland's infrastructure challenges can be addressed and how infrastructure is planned and delivered, and

<sup>5</sup> Queensland Labor, '[Building Queensland: infrastructure for stronger growth](#)', June 2014.

<sup>6</sup> Australian Government, Productivity Commission, '[Public infrastructure](#)', inquiry report no. 71, May 2014.

<sup>7</sup> Ibid, recommendation 2.3, pp 40, 106.

<sup>8</sup> Infrastructure Australia, '[Australian Infrastructure Audit](#)'.

<sup>9</sup> Queensland Government, '[Delivering an infrastructure plan for Queensland](#)', directions paper, June 2015, p 20.

- *an infrastructure pipeline*: highlighting what infrastructure is planned over the next four years, and future infrastructure opportunities and challenges over the next 15 years and beyond.<sup>10</sup>

The stated purpose of the State Infrastructure Plan is to:

- set strategic direction and foster innovation in government's planning, investment and delivery of infrastructure
- identify the anticipated service needs and infrastructure investment opportunities for a prosperous Queensland
- develop a sustainable and credible pipeline of investment for industry, drawing on the independent advice of Building Queensland and input from government agencies, and
- provide context to enable greater coordination between public and private.<sup>11</sup>

The department advised the committee that the State Infrastructure Plan will include a pipeline of State infrastructure projects over the next one to four years, and will identify problems that may require investment in infrastructure in the longer term up to 15 years.<sup>12</sup>

#### **2.2.4 Project Assessment Framework**

In July 2015 Queensland Treasury released the Project Assessment Framework (PAF), replacing the former Project Assurance Framework. The PAF provides information for departments and agencies about significant assets. It consists of an overarching policy, guidance material about evaluation, business case development, supply strategy and sourcing suppliers, delivery and benefits realisation.

The policy overview of the PAF states that 'departments and statutory bodies must have regard to the PAF in preparing evaluations concerning the acquisition, maintenance or improvement of significant assets.'<sup>13</sup>

### **2.3 Government infrastructure and related organisations and their roles**

#### **2.3.1 Overview**

During the course of the committee's examination of the Bill, members of the committee and stakeholders raised questions about the roles of existing agencies regarding infrastructure, and the proposed inter-relationships with Building Queensland. Below is an overview of some relevant organisations with a role in infrastructure development.

In response to the committee's request, the department provided a diagram about the respective roles of Building Queensland, Projects Queensland (now renamed as the Commercial Group, within Queensland Treasury), and Economic Development Queensland (see Appendix C).

#### **2.3.1 Infrastructure Australia**

Infrastructure Australia is established under the *Infrastructure Australia Act 2008* (Cwlth). Its focus is on 'nationally significant infrastructure', which is defined in the Commonwealth Act as including transport, energy, communications and water infrastructure 'in which further investment will materially improve national productivity.'<sup>14</sup>

Infrastructure Australia's functions include conducting audits of nationally significant infrastructure, assessing infrastructure proposals, developing Infrastructure Priority Lists, and providing advice to the

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<sup>10</sup> Ibid, p 5.

<sup>11</sup> Ibid, p 3.

<sup>12</sup> Department of Infrastructure, Local Government and Planning, correspondence dated 24 July 2015.

<sup>13</sup> Queensland Treasury, '[Project Assessment Framework: Policy Overview](#)', July 2015, p 3.

<sup>14</sup> [Infrastructure Australia Act 2008 \(Cth\)](#), s 3.

Commonwealth Minister, Commonwealth, State, Territory and local governments, investors and owners of infrastructure.

One function of Infrastructure Australia is the development of a fifteen year infrastructure plan, which is to be updated every five years and given to the Minister. The Queensland Government has consulted on the development of a plan, and Queensland's State Infrastructure Plan is proposed to be released in early 2016.<sup>15</sup> The development of a State Infrastructure Plan is not a function of Building Queensland.

Aside from their respective national and state focus, Infrastructure Australia and Building Queensland will differ in respect of business cases. 'Building Queensland will be leading business cases whereas Infrastructure Australia predominately assesses business cases provided by various state governments.'<sup>16</sup>

### **2.3.2 Infrastructure bodies in other states**

Other states have established or propose to establish statutory bodies responsible for aspects of infrastructure in their jurisdiction. For example Infrastructure NSW was established as an independent statutory agency in 2011 to assist the NSW Government to identify and prioritise the delivery of critical public infrastructure.<sup>17</sup> Infrastructure Tasmania has recently appointed its inaugural chief executive. The body will assess and prioritise all major publicly funded infrastructure investment proposals and co-ordinate all major infrastructure funding submissions. In late August 2015 the Victorian Parliament was considering a Bill to establish Infrastructure Victoria as a statutory body to provide independent expert advice to government and to establish a new infrastructure planning process.<sup>18</sup>

### **2.3.3 Economic Development Queensland**

The *Economic Development Act 2012* established Economic Development Queensland as a corporation sole, constituted by the Minister. The main function of Economic Development Queensland under the Act is to facilitate economic development, and development for community purposes.

Economic Development Queensland is described as a:

*... catalyst for economic growth through property and infrastructure partnerships across Queensland. [It] works collaboratively with local governments and multiple industry stakeholders, to identify growth opportunities, facilitate and deliver infrastructure and property project solutions for the economic benefit of Queensland communities.*<sup>19</sup>

Typical infrastructure delivered by this process includes infrastructure to enable residential, urban or industrial developments, including road works, water supply, wastewater, storm water and other facilities.<sup>20</sup>

### **2.3.4 Commercial Group, Queensland Treasury**

The Commercial Group in Queensland Treasury (formerly called Projects Queensland) has a role in proposed infrastructure projects that are a potential public private partnership (PPP) or which involve a private financing component. In those circumstances, Queensland Treasury would have input to the business case and would lead procurement of the project.<sup>21</sup>

<sup>15</sup> *Delivering an infrastructure plan for Queensland*, p 20.

<sup>16</sup> Public briefing transcript, 3 June 2015, p 3.

<sup>17</sup> Infrastructure New South Wales, '[About INSW](#)'.

<sup>18</sup> [Infrastructure Victoria Bill 2015 \(Vic\)](#).

<sup>19</sup> Department of Infrastructure, Planning and Local Government, '[Economic Development Queensland](#)'.

<sup>20</sup> Department of Infrastructure, Local Government and Planning, correspondence dated 10 June 2015.

<sup>21</sup> *Ibid*.

### **2.3.5 Coordinator-General**

The *State Development and Public Works Organisation Act 1971* provides for the Coordinator-General to be appointed as a corporation sole. The Coordinator-General assesses and approves infrastructure projects, including environmental and social impacts.

The Coordinator-General has significant powers, including declaration of a project as a 'coordinated project', and assessment of the environmental impact of the project. The Coordinator-General also has powers to coordinate and regulate programs of works, to compulsorily acquire land, and to implement and manage 'state development areas'.<sup>22</sup>

### **2.3.6 Queensland Competition Authority**

The primary role of the Queensland Competition Authority (QCA) is to ensure monopoly businesses in Queensland, particularly in the provision of key infrastructure, do not abuse their market power through unfair pricing or restrictive access arrangements. The QCA investigates and monitors pricing practices of certain monopoly businesses and regulates third party access to essential infrastructure such as railways and port channels.<sup>23</sup>

### **2.3.7 Queensland Productivity Commission**

Establishment of the Queensland Productivity Commission (QPC) was announced by the Treasurer on 28 April 2015. The QPC 'will provide independent advice on complex economic and regulatory issues, and propose policy reforms, with the objective of driving economic growth, lifting productivity, and improving living standards across Queensland'. It has been established initially as a government entity and it is intended that it will become a statutory body under enabling legislation.<sup>24</sup>

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<sup>22</sup> Department of State Development, '[State Development and Public Works Organisation Act](#)'.

<sup>23</sup> Queensland Competition Authority, '[What we do](#)'.

<sup>24</sup> Queensland Treasury, '[Queensland Productivity Commission](#)'.

## 3 Examination of the Bill

### 3.1 Establishment of Building Queensland

The Bill establishes Building Queensland as a body corporate, which may sue or be sued.<sup>25</sup> The *Crime and Corruption Act 2001*, the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangements Act 1982* would apply to Building Queensland.<sup>26</sup>

Submitters universally supported the establishment of Building Queensland. Some of the anticipated benefits of its establishment that stakeholders identified were:

- bringing a whole of government perspective to major infrastructure
- potential to deliver increased rigour and clarity in infrastructure planning and investment decisions, and potentially better infrastructure decisions and a productivity uplift
- greater transparency, so that industry benefits from information about the costs and benefits of competing priorities, and public confidence in assessment of infrastructure projects
- assist other government agencies to develop more appropriate procurement, tendering, financing and other practices
- greater consistency between government agencies in how infrastructure projects are planned
- preparation of objective and informed assessments of infrastructure proposals which will influence State investment in infrastructure projects where needs and benefits are the greatest
- access by local government to the tools, resources and methodologies that Building Queensland develops
- represents a positive direction for the infrastructure industry in Queensland, and
- potential to improve the interface between state and local governments in infrastructure.<sup>27</sup>

#### 3.1.1 Governance - Building Queensland Board

An eight member board of management is proposed for Building Queensland. Clause 24 of the Bill provides that five members of the Board would be appointed by Governor in Council on the recommendation of the Minister. Clause 27 provides for the chair to be appointed on a full-time or part-time basis.

The Minister must be satisfied that the chair and four part-time members have qualifications or experience in a field relevant to a function of Building Queensland. The other three members of the Board would be the chief executives (or a senior executive nominated by the chief executive) of Queensland Treasury, the Department of Premier and Cabinet and the Department of Infrastructure, Local Government and Planning.

The committee notes that the type of experience or qualifications considered relevant to the functions of Building Queensland are not specified in clause 24 of the Bill. The committee acknowledges that it

<sup>25</sup> Clause 7.

<sup>26</sup> Clause 60.

<sup>27</sup> Urban Development Institute of Australia (Qld), Submissions 1; Property Council of Australia, Submission 3; Local Government Association of Queensland, Submission 4; Queensland Resources Council, Submission 6; Infrastructure Association of Queensland, Submission 12; Public hearing transcript, 17 August 2015, pp 6, 11, 15.



would be unwieldy to list all of the relevant expertise of potential Board members in the Bill. The explanatory notes provide examples of the wide range of fields of expertise that may be relevant:

... economics; project management; infrastructure; major projects; urban planning and design; project finance; public private partnerships; business case development; engineering; construction; procurement; legal; resource sector (mining, energy and gas); transport/logistics sector (including ports and shipping); water; environment; and health infrastructure.<sup>28</sup>

The Deputy Premier advised the committee at its Estimates hearing on 19 August 2015 that 190 expressions of interest had been received for four positions on the proposed Board.<sup>29</sup> The committee understands that the Government will be in a position to appoint a Board promptly if the Bill is passed.

### **3.2 Functions, role and powers of Building Queensland**

#### **3.2.1 Overview**

The functions proposed for Building Queensland are set in clauses 9 to 18 of the Bill, and are summarised below:

- independent advice to government about infrastructure
- development of a costs and benefits framework
- evaluation of infrastructure proposals
- lead or assist in the preparation of business cases for infrastructure proposals
- develop and maintain an infrastructure pipeline document
- if directed to do so, lead procurement or delivery of particular infrastructure projects
- publish information and promote public awareness, and
- other functions under legislation.

#### **3.2.2 Infrastructure that will be in Building Queensland's scope**

For the purpose of the Bill, 'infrastructure' is defined as:

... any infrastructure in which initial or further investment is likely to have a significant economic, environmental or social impact in the State or any region of the State.<sup>30</sup>

The Bill requires Building Queensland to provide advice about 'infrastructure projects' and 'infrastructure proposals', which are defined in the Bill as projects and proposals of a 'government agency'. The 'government agencies' to which Building Queensland will provide advice and exercise its other functions are specified in a definition in Schedule 1 (Dictionary) to the Bill. The definition of 'government agency' is, in summary:

- a department or administrative unit in a department
- a government owned corporation or its subsidiary
- an entity established under an Act that represents the State
- an entity established under an Act that does not represent the State and is prescribed under a regulation

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<sup>28</sup> Explanatory notes, p 9.

<sup>29</sup> Infrastructure, Planning and Natural Resources Committee, Estimates public hearing, 19 August 2015, p 48.

<sup>30</sup> Schedule 1 (Definitions).

- Stadiums Queensland
- Queensland Rail Transport Authority or a subsidiary, and
- Queensland Bulk Water Supply Authority.

In addition, the definition of ‘government agency’ enables an entity to be prescribed in a regulation so that it is not subject to the Bill.

Submissions from two local governments and the LGAQ sought clarity about Building Queensland’s role with local government infrastructure projects. The department’s response to submissions noted that where local government-led projects are brought forward by a ‘government agency’ (for example the Department of Education and Training), Building Queensland will have the power to assess the project under the Bill.<sup>31</sup> The committee noted that the explanatory notes for clause 10 make it clear that Building Queensland may give advice to stakeholders outside the State government if they have an interest in a project. The mechanism for local government projects to be part of Building Queensland’s role is proposed to be where local government is a co-investor along with a State government agency. ‘For example, if the State Government is asked to invest in a local government project, it may be a requirement to involve Building Queensland as a condition of funding.’<sup>32</sup>

### 3.3 Independent advice to the State and government agencies

Building Queensland is proposed to ‘provide independent expert advice to the State and government agencies about infrastructure’.<sup>33</sup>

The advice provided by Building Queensland is required to be based on rigorous analysis and take account of forecast growth; economic, social and environmental sustainability; cost benefit analysis; and community benefits, including social return on investment.<sup>34</sup> The matters about which Building Queensland is to provide advice include:

- the State’s current and future needs and priorities relating to infrastructure
- policy, pricing and regulatory issues that may impact on the use of infrastructure
- impediments to the efficient use of infrastructure
- options and reforms to make infrastructure use more efficient
- emerging national and international policy trends
- needs of infrastructure users
- procurement, project finance and other trends in delivery of infrastructure projects
- the delivery of an infrastructure project.

Advice about procurement or delivery of an infrastructure project may include evaluation of the project against targets or assumptions made during procurement or delivery of the project.<sup>35</sup>

The explanatory notes state that the Building Queensland Bill 2015 is specific to Queensland but is ‘generally modelled on the Commonwealth’s Government’s independent statutory infrastructure body, Infrastructure Australia’.<sup>36</sup> The Commonwealth Act sets out similar matters on which

<sup>31</sup> Department of Infrastructure, Planning and Local Government, correspondence dated 24 July 2015.

<sup>32</sup> Explanatory notes, p 5.

<sup>33</sup> Clause 10.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Explanatory notes, p 3.

Infrastructure Australia is to provide advice to the Minister, Commonwealth, State, Territory and local governments, investors in infrastructure and owners of infrastructure.<sup>37</sup>

### 3.4 Development of a framework to assess costs and benefits of infrastructure projects

Building Queensland would be required by clause 11 to develop a framework for assessing the costs and benefits of infrastructure projects. The explanatory notes state:

It is envisaged that the framework will be used across government to develop a consistent whole-of-government approach to developing and progressing infrastructure proposals and projects.

It is anticipated that the framework will be consistent with other infrastructure policies that are administered by the State government for example, the Project Assurance Framework and the Gateway Review Process.<sup>38</sup>

The department advised the committee that work had begun on the development of a framework for cost benefit analysis and has been examining the models used internationally and domestically.<sup>39</sup>

Some submissions suggested that consultation with stakeholders should occur during Building Queensland's development of the framework for cost benefit assessments.<sup>40</sup> The department advised the committee that Building Queensland 'will engage with stakeholders during the development of the framework.'<sup>41</sup>

### 3.5 Evaluation of proposals, development of business cases and cost-benefit analyses

Clause 12 of the Bill provides that Building Queensland may evaluate proposals for investment in new infrastructure, or enhancement of existing infrastructure. Every six months Building Queensland must give the Minister a summary of each proposal evaluated, and make the summary available on its website.

Clause 13 provides for Building Queensland to lead or assist in the preparation of the business case for infrastructure proposals. In summary, Building Queensland's role in preparation of a business case for an infrastructure proposal would be:

- lead business case preparation where the estimated capital cost or the net present value of financial commitments entered into by the State is \$100 million or more
- assist in business case preparation where the capital cost or net present value of commitments is estimated to be between \$50 million and \$100 million, and
- if directed by the Minister, lead or assist in preparation of the business case for any other infrastructure proposal.<sup>42</sup>

If Building Queensland leads the development of a business case, clause 13(2) provides that it must give the Minister details of anticipated productivity gains, including if any complementary infrastructure may be required to maximise those gains; time-frames for delivering the proposal; and a cost-benefit analysis.

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<sup>37</sup> See *Infrastructure Australia Act 2008* (Cth).

<sup>38</sup> Explanatory notes, pp 5-6.

<sup>39</sup> Public hearing transcript, 17 August 2015, p 25.

<sup>40</sup> Sunshine Coast Council, Submission 2; Local Government Association of Queensland, Submission 4; Queensland Resources Council, Submission 6.

<sup>41</sup> Department of Infrastructure, Planning and Local Government, correspondence dated 24 July 2015.

<sup>42</sup> Clause 13.

Clause 16 requires Building Queensland to publish on its website a summary, approved by the Board, of cost benefit analyses in which Building Queensland took the lead. In addition, clause 16 requires Building Queensland to promote public awareness of its functions.

Submitters generally welcomed the requirement in the Bill to publish a summary of cost-benefit analyses. The UDIA commented that publication of cost-benefit summaries:

... is important, because it allows the private sector, it allows the community to look at some of those key metrics and form their own opinions on whether that is a good project and whether that ought to have been a priority for government or not.<sup>43</sup>

The Urban Development Institute of Australia (UDIA) proposed that, in the interests of transparency, the Bill be amended to require Building Queensland to publish a summary of cost benefit analyses within 60 days of providing the summaries to the Minister as required by clause 13. The department responded that it is anticipated that each of the cost-benefit summaries will be reviewed within Building Queensland to ensure that the analysis is developed under guidelines to be developed by Building Queensland. It also advised that the UDIA's suggestion about publication of cost-benefit summaries would be considered by the Board once it is established.<sup>44</sup>

### 3.6 Infrastructure pipeline document

Another function of Building Queensland would be to prepare and maintain an 'infrastructure pipeline document', which is a document that lists each infrastructure proposal or project considered by Building Queensland to be a priority for the State. Clause 14 provides that the infrastructure pipeline document must list the stage of development of the proposal or project, and the estimated cost to deliver the proposal or project. An update must be provided to the Minister every six months.

The UDIA, Sunshine Coast Regional Council, the Property Council of Australia, and Consult Australia all supported the creation of a pipeline document.<sup>45</sup>

Mr Quinn highlighted the interest from the private sector in an infrastructure pipeline document, and said:

... the private sector is looking for a pipeline. It wants to know there is a steady flow of projects coming to market. Given that our role is to establish a pipeline, I think that will give the private sector the certainty it needs because then it in turn can ensure it has the right resources with the right skill sets in order to support that. I think the establishment of the pipeline is going to go a long way towards giving industry the certainty it requires.<sup>46</sup>

The UDIA submission noted that the Bill does not require publication of the pipeline document. It suggested that 'in the interests of transparency, accountability and public scrutiny' the Bill be amended to require Building Queensland to publish the infrastructure pipeline document and its updates within sixty days after it is given to the Minister.<sup>47</sup> In response the department advised that 'public release of the pipeline will be further considered by the Government.' It also noted that it was anticipated that the Board of Building Queensland would consider policies regarding the release of information in the public domain.<sup>48</sup>

<sup>43</sup> Public hearing transcript, 17 August 2015, p 14.

<sup>44</sup> Department of Infrastructure, Planning and Local Government, correspondence dated 24 July 2015.

<sup>45</sup> Urban Development Institute of Australia, Submission 1; Sunshine Coast Council, Submission 2; Property Council of Australia, Submission 3; Consult Australia, Submission 10.

<sup>46</sup> Public briefing transcript, 3 June 2015, p 5.

<sup>47</sup> Urban Development Institute of Australia, Submission 1, p 5.

<sup>48</sup> Department of Infrastructure, Planning and Local Government, correspondence dated 24 July 2015, p 14.

### Committee comment

The committee notes that a number of submitters appear to have assumed that the infrastructure pipeline document will be published. It also notes that the pipeline document could be published under clause 16(2) which enables Building Queensland to publish any information relevant to its functions.

The committee considers that the development of the infrastructure pipeline document is an important function of Building Queensland. The committee recommends the Minister amend the Bill to require that Building Queensland publish the infrastructure pipeline document after providing six monthly updates to the Minister.

#### **Recommendation 2**

The committee unanimously recommends the Bill be amended to require that Building Queensland publish the infrastructure pipeline document after providing six monthly updates to the Minister.

### **3.7 Consultation and promoting public awareness**

#### **3.7.1 Publication of information and promoting public awareness**

One of Building Queensland's functions is to publish information and promote public awareness of its role. As discussed above, clause 16 provides that Building Queensland:

- is to publish a summary, approved by the Board, of each cost-benefit analysis prepared by Building Queensland when it leads preparation of a business case under clause 13,
- promote public awareness of its functions, and
- may publish other information, other than confidential information.

Timely reporting of Ministerial directions is discussed below.

#### **3.7.2 Consultation**

The Bill enables Building Queensland, in performing its functions or exercising its powers, to consult with any entity it considers appropriate. Examples of bodies to be consulted are set out in clause 20 of the Bill and include the Commonwealth, State or local governments or their agencies, commercial, academic, professional or occupational bodies, and investors, owners or operators of infrastructure.

A number of submitters, including local government, highlighted the importance of consultation by Building Queensland. It was clear from evidence presented to the committee that a consultative approach would be essential to the success of Building Queensland, and that the officials who are responsible for implementing the proposed statutory body are committed to consulting with stakeholders.

The Local Government Association of Queensland (LGAQ) emphasised the importance of improving the interface between state agencies and local governments about infrastructure, and anticipated that processes developed by Building Queensland could improve that interface.<sup>49</sup>

Stakeholders were particularly interested in consultation during Building Queensland's development of a framework for cost-benefit analyses. As discussed above, the department advised that stakeholders will be consulted about the framework.

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<sup>49</sup> Public hearing transcript, 17 August 2015, p 2.

### 3.8 Procurement or delivery of some infrastructure projects

The Minister for Infrastructure, Local Government and Planning, after consulting with the responsible Minister/s, may direct Building Queensland to lead procurement or delivery of a specific infrastructure project to the extent directed.<sup>50</sup> The explanatory notes state that the Minister's direction must be clear about the role of Building Queensland and the extent to which it will lead the project. The notes state:

This will be an infrequent situation and typically the responsible department will lead and deliver their relevant projects. Where Building Queensland is directed to lead the delivery of a project, it will work cooperatively with a government agency or a specific delivery area for example, the Department of Transport and Main Roads or the Office of the Coordinator-General, drawing on the resources and expertise of these relevant government agencies.

Building Queensland will not exercise the statutory powers of delivery areas such as the Office of the Coordinator-General or Economic Development Queensland.<sup>51</sup>

### 3.9 Ministerial directions

Clause 18 provides that the Minister may give Building Queensland a written direction of a general nature about the performance of its functions. A written direction may not be about the particular content of its advice, policy or a report Building Queensland prepares. A direction may direct Building Queensland not to exercise its functions in relation to a particular infrastructure project. Building Queensland's annual report must include details of any Ministerial direction given during the financial year, and the action taken by Building Queensland because of the direction.<sup>52</sup>

The explanatory notes state that the Ministerial discretion to give a direction 'is intended to ensure the necessary flexibility for the Minister to take a 'best for project' approach where required.'<sup>53</sup>

The committee considered the potential impact of Ministerial directions. Some submitters commented that Ministerial directions to Building Queensland could reduce transparency. For example, the Queensland Resources Council suggested that the reasons for a Ministerial direction should be made explicit when the direction is published.<sup>54</sup>

The UDIA and the Australian Constructors Association (ACA) acknowledged that Ministerial directions were common for similar bodies in other jurisdictions, but suggested more timely reporting of directions. Submitters noted that there could be up to 15 months delay between a Ministerial direction and publication of the Ministerial direction in Building Queensland's annual report.

The ACA suggested that more contemporaneous release of information about a direction would add to transparency. It suggested the option of tabling Ministerial directions in Parliament within a certain number of sitting days.<sup>55</sup> The UDIA suggested disclosure of Ministerial directions within 28 days after the end of each six-month period.<sup>56</sup> Its evidence to the committee was that:

... an important quality of transparency is the timeliness of the transparency. What are the benefits of transparency? It allows the voter and industry to look at the infrastructure proposals out there, to see a summary of what the costs and benefits of each are and then to form an opinion on whether or not the decisions by government on the priorities and the amount of funding for infrastructure are good decisions.<sup>57</sup>

<sup>50</sup> Clause 15.

<sup>51</sup> Explanatory notes, p 7.

<sup>52</sup> Clause 50.

<sup>53</sup> Explanatory notes, p 8.

<sup>54</sup> Submission 6; Public hearing transcript, 17 August 2015, p 6.

<sup>55</sup> Public hearing transcript, 17 August 2015, p 10.

<sup>56</sup> Urban Development Institute of Australia (Qld), Submission 1, p 2.

<sup>57</sup> Public hearing transcript, 17 August 2015, p 19.

### Committee comment

The committee agreed that timely reporting of Ministerial directions would enhance the transparency already provided for in the Bill. The committee recommends that the Bill be amended to require timely publication of Ministerial directions by Building Queensland, in addition to the requirement already in the Bill to report on directions in the annual report. The committee suggests that the Minister consider an amendment which requires Building Queensland to report Ministerial directions on its website on a six monthly basis, as proposed in the Urban Development Institute of Australia's submission to the committee.

#### **Recommendation 3**

The committee unanimously recommends the Bill be amended to provide for timely public reporting of Ministerial directions to Building Queensland.

### **3.10 Powers of Building Queensland**

Clause 19 of the Bill provides that Building Queensland would have all of the powers of an individual; it could enter contracts, acquire and deal with property and would have other powers required to perform its functions.

Building Queensland's powers may be exercised in Queensland and elsewhere.<sup>58</sup> The department advised that the capacity for Building Queensland to exercise its powers outside Queensland may include engaging a consultant or an advisory firm whose business is located outside Queensland.<sup>59</sup>

### **3.11 Chief executive and staff of Building Queensland**

The Bill provides for Building Queensland to appoint a chief executive officer under clause 39, in consultation with the Minister. The chief executive officer would be appointed under the proposed Building Queensland Act for a term of up to five years (renewable), and is not appointed under the *Public Service Act 2008*.

Other staff may be employed by Building Queensland under the *Public Service Act 2008*. The Bill also enables Building Queensland to make arrangements for the services of staff of departments to be made available to Building Queensland. Mr Quinn, chief executive, advised the committee that Building Queensland would have a staff of 30 and that:

... one of the benefits of the building Queensland model is that it is very flexible. We can resource up and resource down depending on the number of projects that we have at any point in time. In fact, part of the beauty of having a small group ... is the fact that it reinforces the need for agencies to bring staff with the projects, because at the end of the day the expertise does reside within the agencies.<sup>60</sup>

### **3.12 Impact of Building Queensland on infrastructure development timelines**

Committee members considered whether the creation of Building Queensland could add another layer of bureaucracy and increase the time required for an infrastructure project to be implemented.

The view of most witnesses was that this was unlikely. Stakeholders considered that the Bill itself did not present further red tape or a bottleneck. For example, the UDIA commented that the operational procedures and the way that Building Queensland is set up, its relationship with state agencies, the documents and the quality of its disclosures that will determine the value to the public and taxpayer.

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<sup>58</sup> Clause 20.

<sup>59</sup> Public briefing transcript, 3 June 2015, p 10.

<sup>60</sup> Public hearing transcript, 17 August 2015, p 23.

Another level of bureaucracy ought not to be the outcome of Building Queensland's establishment.<sup>61</sup> The Queensland Resources Council said that because Building Queensland's role was prospective rather than retrospective 'it should be able to be accommodated in the existing project time lines.'<sup>62</sup>

The department advised that 'the whole idea is to streamline the process and make it efficient'. In relation to Commercial Group involvement, the department said that the process for PPPs will be streamlined because Commercial Group can be involved in development of a business case and will have the knowledge to take it through subsequent phases.<sup>63</sup>

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<sup>61</sup> Ibid, p 18.

<sup>62</sup> Ibid, p 8.

<sup>63</sup> Public briefing transcript, 3 June 2015, p 5.



## 4 Compliance with the *Legislative Standards Act 1992*

### 4.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that ‘fundamental legislative principles’ (FLPs) are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of parliament.

The committee has examined the application of FLPs to the Bill and did not consider that the Bill raises any significant FLP issues.

### 4.2 Explanatory notes

#### 4.2.1 Overview

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain. Following portfolio committee reports during the last Parliament, the Department of Premier and Cabinet revised the guidelines for departments when preparing explanatory notes. The guidelines quote a portfolio committee, which stated that the purpose of explanatory notes

... is to assist with the understanding of the Bill. When compiling explanatory notes, agencies need to put themselves in the place of a stakeholder with limited or no knowledge of what is trying to be achieved by the Bill. Explanatory notes need to include sufficient detail and be presented in such a way that they can be easily understood.<sup>64</sup>

While the explanatory notes contain most of the information required by Part 4 of the LSA, the committee considered that the explanatory notes could have been improved to assist stakeholders, the committee and other Members of the Parliament.

#### 4.2.2 Policy objectives and rationale

The committee considered that more detail of the policy objectives and rationale for the Bill would have been helpful. Some of the concerns raised by stakeholders during its inquiry could have been averted if the explanatory notes contained more detail about the policy the Bill proposes to implement.

The committee notes that the Bill appears to implement a recommendation of the 2014 Productivity Commission (PC) Report, *Public Infrastructure*, although the PC report is not mentioned in the explanatory notes. The PC recommended that all governments should put in place rigorous and transparent use of cost-benefit analyses for public infrastructure investment proposals above \$50 million.<sup>65</sup>

#### 4.2.3 Consultation by government with stakeholders

The *Legislative Standards Act 1992* requires that explanatory notes include ‘a brief statement of the extent to which consultation was carried out in relation to the Bill’.

The explanatory notes state: ‘No community consultation has occurred on the Bill as the Bill implements a clear election commitment’. However, the notes also state that briefings were provided to key stakeholders to receive verbal feedback and to facilitate more informed written feedback. It is

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<sup>64</sup> [Guidelines for the preparation of explanatory notes](#), 2015, p 1.

<sup>65</sup> Australian Government, Productivity Commission, [Public infrastructure](#), inquiry report no. 71, May 2014, recommendation 2.3, pp 40, 106.

unclear to the committee whether 'key stakeholders' are government agencies, or stakeholders external to Government with an interest in the Bill. The explanatory notes do not state the extent to which consultation was carried out, including which stakeholders were consulted and to what extent.

## Appendices

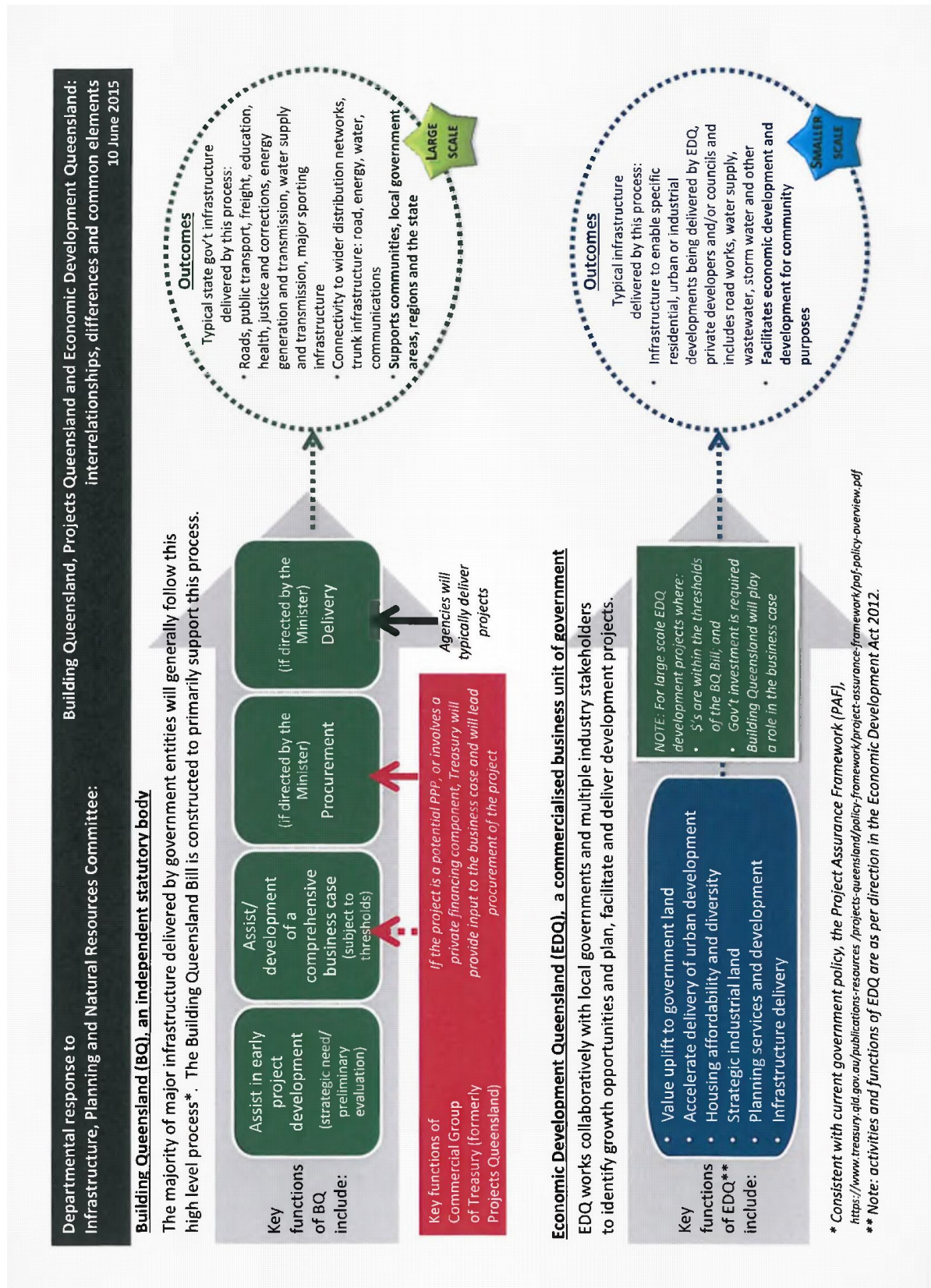
### Appendix A – List of submitters

Sub #	Name
1	Urban Development Institute of Australia (Qld)
2	Sunshine Coast Council
3	Property Council of Australia
4	Local Government Association of Queensland
5	buildingSMART Australasia
6	Queensland Resources Council
7	Mackay Regional Council
8	Powerlink Queensland
9	Property Rights Australia
10	Consult Australia
11	Redland City Council
12	Infrastructure Association of Queensland
13	Australian Constructors Association and Queensland Major Contractors Association

### Appendix B – List of witnesses at the public hearing held 17 August 2015

<b>Witnesses</b>	
1	Mr Greg Hoffman, Chief Executive Officer, Local Government Association of Queensland Mr Arron Hieatt, Senior Advisor, Advocacy, Local Government Association of Queensland
2	Mr Andrew Barger, Director, Economics and Infrastructure, Queensland Resources Council
3	Mr Lindsay Le Compte, Executive Director, Australian Constructors Association and Queensland Major Contractors Association
4	Mr Duncan Maclaine, Director of Policy and Economic Research, Urban Development Institute Australia (Queensland)
5	Department of Infrastructure, Local Government and Planning <ul style="list-style-type: none"> <li>▪ Mr David Quinn, General Manager, Building Queensland</li> <li>▪ Ms Catherine Harch, Director, Building Queensland</li> <li>▪ Ms Bronwyn Blagoev, Executive Director</li> </ul>

## Appendix C – Role of Building Queensland, Projects Queensland and Economic Development Queensland



## Statement of Reservation



**Michael Hart MP** State Member for Burleigh

31 August 2015

Mr Jim Pearce  
Chairperson  
Infrastructure, Planning and Natural Resources Committee  
Parliament House  
George Street  
Brisbane Qld 4000

Mr Pearce

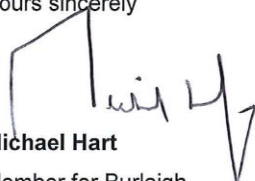
**RE: - Building Queensland Bill 2015**

We wish to notify the Committee of our reservations about aspects of Report No.4 of the Infrastructure, Planning and Natural Resources Committee.

The Opposition members of the committee support the recommendations made in the committee report however we have some concerns in relation to the degree of clarity, transparency and accountability currently reflected in the Bill.

We will detail these concerns and any further reservations during the second reading debate having cited the Government response to the Committee's recommendations

Yours sincerely

  
**Michael Hart**  
Member for Burleigh



**Lachlan Millar**  
Member for Gregory

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