



# Gold Coast Rapid Transit

21 Legislation and  
Policy Requirements

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# 1. Introduction

*The Transport Infrastructure Act 1994 (TIA)* establishes a regime which allows the Queensland Government to investigate, plan and construct transport infrastructure in Queensland. The development of the Gold Coast Rapid Transit (GCRT) would trigger the requirement for a number of approvals under the *Integrated Planning Act 1997 (IPA)*, other State and Commonwealth legislation. The purpose of this Chapter is to identify the key legislation under which a permit, licence or approval may be required for the construction and operation of the GCRT.

The establishment of the GCRT is referred to in statutory planning documents, for example the Regional Transport Plan for South East Queensland. The regional and local planning framework applicable to the GCRT is explained in more detail in Volume 2, Chapter 12 titled Land Use Planning.

## 2. Key Legislative and Policy Requirements

The *Transport Planning and Coordination Act 1994 (TPCA)* provides the overall framework for transport planning in Queensland. It establishes principles of planning and coordination and has the aim of achieving effectiveness and efficiency in management of all transport resources. Its application covers roads and passenger services including ferries, buses and rail. Provisions particularly relevant to public transport corridors include definition of transport purposes and transport land, and provisions for acquiring and disposing of land to be used for transport purposes. Part 2A of the Act focuses on passenger transport.

### 2.1 Transport Infrastructure Act 1994

The *TIA 1994* provides the legislative basis for the establishment and operation of transport infrastructure in Queensland, including public transport infrastructure. The *TIA 1994* provides the legislative basis for the establishment and operation of transport infrastructure in Queensland, including public transport infrastructure.

The busway and light rail provisions are essentially the same in terms of the requirements for project construction and delivery but differ with respect to the operational requirements. Light rail accreditation provisions draw on the Queensland experience in operating rail services.

The light rail provisions have been drafted to allow for operation in spaces shared with roads, and offer substantial flexibility in the way roads and light rail may interface.

Regulations for management of busways have been created under TIA. It is anticipated that the application of these regulations (or similar provisions) will be extended to any light rail operating in Queensland.

### 2.2 Transport Operations (Passenger Transport) Act 1994 (TOPTA)

The *Transport Operations (Passenger Transport) Act 1994 (TOPTA)* focuses on operational aspects of passenger transport, including the accreditation of operators and the licensing of drivers, excluding operators and drivers of fixed track rail services. Therefore the operators of busway services and ferry services would be covered under TOPTA, but not those of light rail or rail. Fares and fare evasion for all services, including fixed track services are addressed in TOPTA.

### 2.3 Development Approvals under the Integrated Planning Act 1997

The *Integrated Planning Act 1997 (IPA)*, being the State's principle regulatory control, continues to apply to any aspect of the Project that might be "development" as defined under the IPA. The IPA defines development as any of the following:

- ▶ carrying out building work;
- ▶ carrying out plumbing or drainage work;
- ▶ carrying out operational work;

- ▶ reconfiguring a lot; or
- ▶ making a material change of use of premises.

It is likely that the construction of the GCRT would involve all aspects of development under the IPA. A development permit must be obtained for each aspect of development that is 'assessable development'. A development permit is not necessary for self-assessable development or exempt development. However, self-assessable development must comply with any applicable development codes.

Assessable development under the IPA can either be 'code' assessable or 'impact' assessable. Code assessable development is assessed against applicable codes. It does not require public advertising. Impact assessable development will require public advertising. Public submissions can be made to impact assessable applications and appeal rights (to the Planning and Environment Court) are available to submitters.

Approvals for such development are regulated through Schedule 8 Part 1 of IPA and The Gold Coast "Our Living City" Planning Scheme.

## 2.4 Acquisition of Land Act 1967

*The Acquisition of Land Act 1967* provides the power, process and compensation provisions required to deal with the voluntary or compulsory acquisition of interests in land required for the construction and operation of the GCRT Project. The constructing authority (established through separate legislation) is able to acquire land for a public purpose using the provisions of this Act. Issues dealt with in the Act include:

- ▶ the notice of intention to resume and objection provisions;
- ▶ effect of the Gazette resumption notice;
- ▶ compensation provisions; and
- ▶ reference of claims to the land court.

## 2.5 Nature Conservation Act 1992

Any activity that may have, or may have the potential to, impact on endangered, vulnerable, or rare wildlife, or the habitat on which that wildlife depends will be referred, as part of the development approval process, to the Environmental Protection Agency (EPA) who manages the *Nature Conservation Act 1992* (NCA). Accordingly, in the event the GCRT Project activities require interference with protected areas or animals under the NCA it will be necessary to obtain a permit under the *Nature Conservation Regulations 1994* from the EPA. This is likely to be required where clearing is involved.

## 2.6 Aboriginal Cultural Heritage Act 2003

*The Aboriginal Cultural Heritage Act 2003* imposes a cultural heritage duty of care on all persons that require all reasonable and practicable measures to be taken to ensure the activity does not harm Aboriginal cultural heritage. *The Aboriginal Cultural Act 2003* sets out a statutory process for developing a Cultural Heritage Management Plan (CHMP). Initial discussions regarding Aboriginal cultural heritage

have begun and a process of on-going engagement with parties will be undertaken. This may result in an approved CHMP or other accord as appropriate to ensure the proper management of Aboriginal cultural heritage issues.

## **2.7 Environmental Protection Act 1994**

The EPA requires individuals and organisations to comply with a General Environmental Duty to avoid activities that could cause environmental harm. The Project will need to comply with this General Environmental Duty, whether a permit is required or not for an activity, or if a permit has been issued for the activity. The Act also requires notification if serious or material environmental harm is caused or threatened by an act or omission in carrying out an activity.

The Act also contains a duty to advise the EPA of any notifiable activity listed in Schedule 2 to the EP Act. For the GCRT Project, future notifiable activities are likely to include battery manufacture or recycling, chemical storage, electrical transformers, engine reconditioning works, petroleum product or oil storage, and railway yards.

The EP Act also requires that any sites where notifiable activity has previously occurred or where contaminated land has been identified to be appropriately managed. In particular it requires that a disposal permit is needed to remove and treat or dispose of contaminated soil from land for which particulars are recorded in the environmental management register or contaminated land register. In some cases land remediation may also be required. In the case of the GCRT, sites previously used for storage of oil, petrol or other chemicals or where there has previously been a notifiable industry or activity could trigger the need for soil disposal permits.

## **2.8 Water Act 2000**

Certain works undertaken in a watercourse as defined in the *Water Act* require a riverine protection permit. The majority of watercourses to be affected by the GCRT Project are tidal in nature and as such the *Water Act* likely have only limited application.

## **2.9 Forestry Act 1959**

Where there is interference with any forest products or quarry material located on Crown land it may be necessary to obtain a licence under the *Forestry Act*.

## **2.10 Gold Coast City Council Local Laws**

In addition to the GCCC Planning Scheme, the GCCC has also created local laws by which it regulates activities such as vegetation removal, parking, blasting, temporary road closures and construction work. The local laws of GCCC will apply to the GCRT Project. They are likely to have application in the Construction Phase and the Operation Phase. The relevant local laws associated with the construction and operational phases of the GCRT Project in Table 21 - 1.

**Table 21 - 1 GCCC Local Laws**

<b>Construction Phase</b>	
No. 3 (Gates and Grids)	Regulates the installation of gates and grids across public roads if needed in the construction phase to ensure that they do not interfere with: (a) the safe movement of pedestrians and vehicles; or (b) the proper maintenance of public roads.
No. 6 (Vegetation Management)	Manages the removal of protected vegetation whilst ensuring appropriate permits are granted to ensure minimal damage.
No. 9 (Parks and Reserves)	Applicable to damage to existing parks or reserves, and also relates to the use of, and hours of use.
No. 11 (Roads and Malls)	Regulates the construction maintenance and improvement of roads will be through Local Law No. 19. The Local Law refers to road construction, traffic control, road closures, property in road structures and road damage.
No. 18 (Safety and Convenience Dangerous Goods and Quarrying)	Addresses the blasting requirements of the development. Blasting would only be carried out during the construction phase, if required, due to adverse ground conditions.
No. 23 (Limitation of Hours of Building and Construction Work)	Regulates the hours which building or construction work is carried out. The limitation of hours of work reduces public health and safety risks and inconvenience by eliminating and reducing nuisances and excessive noise.
No. 24 (Encroachments, Projections and Awnings)	Ensures that no structure, stairs, steps, awning or projection is erected to ensure that roads will not be encroached upon.
No. 25 (Miscellaneous Provisions)	Miscellaneous provisions consist of damage to Council property, public notification, lighting and construction of fences. This is relevant in both the construction and operation phases of the GCRT Project.
No. 33 (Watercourses)	Ensures the protection of the waterways and the environment, to prevent pollution and offensive matter whilst ensuring the water flow in unimpeded.
No. 38 (Disposal of Material Excavated from Building Sites)	Governs the obligations liabilities relating to the excavation and the appropriate disposal of material.
<b>Operation Phase</b>	
No. 7 (Control of Advertising Devices)	Control of advertising devices includes the classification and conditions of advertising. The control of advertising devices will be necessary in the operation phase of the Project.
No. 2 (Regulated Parking)	Regulates parking on roads in local government areas in order to provide safe, efficient and universal parking access. The Regulated Parking Local Law will be effective in the operation phase of the Project.

## 2.11 Department of Main Roads (DMR) Permits

An Excess Mass Permit is required from DMR for all movements for load carrying vehicles carrying indivisible items (i.e. low loaders, platforms etc.) above 49.5 tonnes and special purpose vehicles (i.e. mobile cranes, earthmoving equipment, drilling rigs etc.) above 40 tonne. Excess Mass Permits are also required for those movements above regulation masses that do not comply with the Excess Mass Guideline.

Excess Dimension Permits are required for all movements that exceed any of the following dimensions:

- ▶ 5.5 metres wide;
- ▶ 4.8 metres high; and
- ▶ 35 metres long.

Any movement where the width of the oversize movement exceeds 4.6 metres approval must be obtained from the Department of Main Roads (DMR) in the form of a letter of no objection.

## 3. Commonwealth Legislation

Commonwealth legislation applicable to the GCRT Project is likely to include:

- ▶ *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act); and
- ▶ *Native Title Act 1993*.

### 3.1 Environment Protection and Biodiversity Conservation Act 1999

Under the EPBC Act, a person must not take action that has, will or is likely to have a significant impact on a matter of national environmental significance without the approval of the Commonwealth Minister for the Environment and Heritage. Matters of national Environmental Significance currently include:

- ▶ world heritage properties;
- ▶ national heritage properties;
- ▶ wetlands of international importance;
- ▶ listed threatened species and communities;
- ▶ listed migratory species; and
- ▶ Commonwealth marine areas.

The Project has been referred to the Commonwealth with the findings of the CDIMP that identified a number of possible impacts on matters of National Environment Significance. The Commonwealth has various options available to it in considering a referral. These options include:

- ▶ deciding that the Project is not a controlled action because there are not likely to be any significant impacts on matters of National Environment Significance; and
- ▶ deciding the Project is not a controlled action because the proponent is able to demonstrate the Project can be undertaken in a particular manner, which would avoid adverse impacts on matters of National Environment Significance.

Further Concept Design and ecological work is being undertaken along the proposed corridors to ensure the referral is accompanied by as much relevant data as possible and to ensure possible impacts on matters of National Environment Significance are properly understood and mitigation measures are identified.

### 3.2 Native Title Act 1993

*The Native Title Act 1993* relates to:

- ▶ acts affecting Native Title;
- ▶ the determination of whether Native Title exists; and
- ▶ compensation for acts affecting Native Title.

The GCRT Project may encounter native title issues which will need to be resolved in accordance with the “future act” provisions of the Commonwealth NTA and the Queensland NTA. Native title is assumed to continue to exist unless there is evidence of extinguishment by previous grants of title or “public works”. An analysis of the historical current and intended tenure and usage of the land, and waters crossed by the GCRT system will assist in identifying if the NTA will apply.

## 4. Safety and Other Accreditation

There are separate requirements for system accreditation and licensing of BRT and LRT. Bus and light rail systems are treated under the relevant legislative regimes which apply to these modes. Buses are covered by legislation applying to motor vehicles while light rail is covered by rail safety legislation. Accreditation and licensing relates to vehicles, drivers and systems.

### 4.1 BRT Accreditation

#### 4.1.1 BRT Vehicle Accreditation

The BRT vehicle must comply with the national motor vehicle design standards set out in the Australian Design Rules in order to be registered for road use under the TORUMA. If the vehicle dimensions are outside the Australian Design Rules, it is possible to obtain registration under the national IPBS. This is likely to be the situation with bi-articulated buses. To obtain registration under the IPBS, it would be necessary to demonstrate that the vehicle can operate safely in the proposed road environment. Registration may be conditional and include such things as restrictions on where vehicles can be driven, specific additional driver qualifications and special engineering design standards for BRT operating infrastructure.

#### 4.1.2 BRT System Accreditation

The current regulatory arrangements applying generally to the operation of rubber wheeled road transport cover BRT. There are no statutory requirements for comprehensive BRT safety system accreditation. However, it would be necessary to be authorised under the TIA to operate the BRT. There would be a further requirement to be accredited as an operator under the TOPTA.

### 4.2 LRT Accreditation

#### 4.2.1 LRT System Accreditation

Safety accreditation of the LRT system would be through the light rail safety regime administered by the Rail Safety Unit of Queensland Transport. This accreditation is primarily systems based and requires demonstration of the competency and capacity to manage and operate a light rail system backed by a safety management system (SMS). This approach is comprehensive in its coverage of people and things.

The Transport (Rail Safety) Bill is currently before Parliament. This proposed legislation is based on the national model rail safety legislation, which is being adopted progressively, with modifications, by all jurisdictions to provide a consistent approach to rail safety across Australia. This will not fundamentally change the requirements for accreditation for a LRT system existing under the TIA.

In addition, accreditation is required under the TIA for the management and operation of a light rail system. There may be a further requirement to be accredited under the TOPTA.

#### **4.2.2 LRT Vehicle Accreditation**

Light rail vehicles would be accredited as a component of the SMS for the LRT system. This would need to deal with the specific safety requirements for LRT vehicles as a component of the overall system.