

# Chapter 27

## Planning and Approval Requirements

## 27.0 Planning and Approval Requirements

### 27.1 Commonwealth Legislation

#### 27.1.1 Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the Commonwealth Government's central piece of environmental legislation. It provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places – defined in the EPBC Act as matters of national environmental significance (MNES). The nine MNES are:

- world heritage properties
- national heritage places
- wetlands of international importance (often called 'Ramsar' wetlands after the international treaty under which such wetlands are listed)
- nationally threatened species and ecological communities
- migratory species
- Commonwealth marine areas
- the Great Barrier Reef Marine Park
- nuclear actions (including uranium mining)
- a water resource, in relation to coal seam gas development and large coal mining development.

The EPBC Act is administered by the Commonwealth Department of the Environment and Energy (DoEE). The EPBC Act aims to streamline national environmental assessment and approvals processes, protect Australian biodiversity and integrate management of MNES. Where a Project may cause a significant impact on a MNES, a Referral to the Commonwealth Government Minister for the Environment is required.

Where MNES may be impacted, a proponent refers the project to DoEE for assessment of potential impacts. DoEE will make a declaration that the project is:

- Not a controlled action – meaning that DoEE has no requirement to assess the project further
- Not a controlled action 'particular manner' – meaning that DoEE has no requirement to assess the project further providing that the action is undertaken in accordance with conditions that DoEE supplies with the decision
- Controlled action – meaning that DoEE wish to assess the project against the EPBC Act. There are several mechanisms available for that assessment dependent on the type of project.

A number of ecology surveys have been undertaken for the Project, focusing on the potential presence of protected flora and fauna species, and their habitat. Chapter 9 Flora and Chapter 10 Fauna provide a summary of the results of these surveys. The Project will be referred to DoEE for a determination on an action decision.

#### 27.1.2 Native Title Act 1993

Native title is defined under the *Native Title Act 1993* (NT Act). Native title rights and interests are rights and interests in relation to land or waters held by Aboriginal peoples or Torres Strait Islanders under their traditional laws and customs, and recognised by the common law of Australia.

Native title rights may exist regardless of whether there is a native title claim or determination in relation to the relevant land or waters, and may be exclusive or non-exclusive rights. Non-exclusive rights may co-exist with the rights of others, such as a pastoral leaseholder.

Any acts or dealings in relation to land and waters that affect native title must comply with the NT Act in order to be validly done.

To the extent that native title exists or may exist in the area of the Draft Alignment, Powerlink Queensland will comply with the requirements of the NT Act for securing an easement for the transmission line and acquiring land for a new substation. Powerlink Queensland typically complies with Section 24KA of the NT Act, which applies to facilities for services to the public, for its transmission line easements. Under Section 24KA, native title is not extinguished, but is 'suppressed' while the easement remains in place.

### 27.1.3 Aboriginal and Torres Strait Islander Heritage Protection Act 1984

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (the ATSIHP Act) provides for the preservation and protection of places, areas and objects of particular significance to Indigenous Australians. The stated purpose of the ATSIHP Act is the:

*"preservation and protection from injury or desecration of areas and objects in Australia and in Australian waters, being areas and objects that are of particular significance to Aboriginals in accordance with Aboriginal tradition"* (Part I, Section 4).

Under the Act, 'Aboriginal tradition' is defined as:

*"the body of traditions, observances, customs and beliefs of Aboriginals generally or of a particular community or group of Aboriginals, and includes any such traditions, observances, customs or beliefs relating to particular persons, areas, objects or relationships"* (Part I, Section 3).

A 'significant Aboriginal area' is an area of land or water in Australia that is of:

*"particular significance to Aboriginals in accordance with Aboriginal tradition"* (Part I, Section 3).

A 'significant Aboriginal object', on the other hand, refers to an object (including Aboriginal remains) of like significance. For the purposes of the Act, an area or object is considered to have been injured or desecrated if:

- In the case of an area:
  - It is used or treated in a manner inconsistent with Aboriginal tradition;
  - The use or significance of the area in accordance with Aboriginal tradition is adversely affected; and
  - Passage through, or over, or entry upon, the area by any person occurs in a manner inconsistent with Aboriginal tradition.
- In the case of an object:
  - It is used or treated in a manner inconsistent with Aboriginal tradition.

The ATSIHP Act can override State and Territory laws in situations where a State or Territory has approved an activity, but the Commonwealth Minister prevents the activity from occurring by making a declaration to protect an area or object. However, the Minister can only make a decision after receiving a legally valid application under the ATSIHP Act and, in the case of long term protection, after considering a report on the matter. Before making a declaration to protect an area or object in a state or territory, the Commonwealth Minister must consult the appropriate minister of that state or territory (Part 2, Section 13).

Where Powerlink Queensland or its contractors discover anything that they have reasonable grounds to suspect to be Aboriginal remains, the discovery shall be reported to the Minister, giving particulars of the remains and of their location.

## **27.2 State Legislation**

### **27.2.1 Electricity Act 1994**

The *Electricity Act 1994* sets out the requirements that all electricity industry participants are required to promote a safe, efficient and reliable supply and use of electricity. The Act also requires that the supply of electricity is undertaken in an environmentally sound manner. Under Section 31(b) of the Act, a transmission entity is required to properly take into account the environmental effects of its activities under the transmission authority.

Powerlink Queensland will meet this requirement through the implementation of Project specific Environmental Management Plans (EMP). The EMPs will be implemented through the construction, operation and maintenance stages of the Project.

### **27.2.2 Electrical Safety Act 2002**

The *Electrical Safety Act 2002* seeks to prevent through regulation, the death, injury and destruction that can be caused by electricity. Accordingly, the purpose of this Act is to establish a legislative framework for:

- preventing persons from being killed or injured by electricity
- preventing property from being destroyed or damaged by electricity.

The Project has been designed to satisfy the requirements of the *Electrical Safety Act 2002*.

### **27.2.3 Acquisition of Land Act 1967**

The *Acquisition of Land Act 1967* governs the process for the compulsory or voluntary acquisition of land for a public purpose by a constructing authority in Queensland. Schedule 2 of the Act defines a construction authority as being the State, a local government or a person authorised by an act to take land for any purpose. In accordance with the *Electricity Act 1994*, Powerlink Queensland is identified as a construction authority.

Powerlink Queensland's first preference is to negotiate acquisition of land wherever possible and will make all reasonable attempts to reach voluntary agreement for easements and other tenure required for the Project. Powerlink Queensland has established processes for the acquisition of land and easements by both negotiation and compulsory means and seeks to provide fair and reasonable support for landholders impacted by these processes, including access to independent expert advice relating to their compensation claim as early in the process as possible.

### **27.2.4 Land Act 1994**

The *Land Act 1994* consolidates and amends the law relating to the administration and management of non-freehold land and deeds of grant in trust and the creation of freehold land, and for related purposes. The *Land Act 1994* regulates a number of activities in relation to the Project, including resumptions, easements and works in local road reserves.

The Draft Alignment traverses a range of tenures including unallocated state land, lands lease, freehold, local and state road reserve. Powerlink Queensland, through exemptions detailed in the *Electricity Act 1994* are able to construct, operate and maintain electricity infrastructure within road corridors by written agreement with the relevant road authority and on unallocated state land. Powerlink Queensland has begun consultation with local and State road authorities.

### **27.2.5 Transport Infrastructure Act 1994**

The *Transport Infrastructure Act 1994* aims to provide a regime that allows for and encourages effective integrated planning and efficient management of a system of transport infrastructure. The *Transport Infrastructure Act 1994* is administered by the Department of Transport and Main Roads (DTMR).

The Project area crosses two State-controlled roads, being the Gregory Developmental Road (No. 98C) and the Kennedy Developmental Road (No. 99B). During the construction phase the works may require temporary road closures and temporary accesses to undertake activities including line stringing and the transportation of construction material on long and/or wide haulage vehicles.

Chapter 18 Transport and Traffic has identified that Project traffic exceeds 5% of the base traffic (background traffic). In accordance with the DTMR Guide to Traffic Impact Assessment, a detailed Traffic Impact Assessment and Pavement Impact Assessment will be required for the Project, and it is assumed this will be conditioned through a State Interests Review. Powerlink Queensland is currently undertaking this work.

#### **27.2.6 Aboriginal Cultural Heritage Act 2003**

The purpose of the *Aboriginal Cultural Heritage Act 2003* (ACH Act) is to provide effective recognition, protection and conservation of Aboriginal cultural heritage. To achieve its purpose, the ACH Act provides for the following:

- recognises Aboriginal ownership of Aboriginal human remains wherever held
- recognises Aboriginal ownership of Aboriginal cultural heritage of a secret or sacred nature held in State collections
- recognises Aboriginal ownership of Aboriginal cultural heritage that is lawfully taken away from an area by an Aboriginal party for the area
- establishes a duty of care for activities that may harm Aboriginal cultural heritage
- establishes powers of protection, investigation and enforcement
- establishes a database and a register for recording Aboriginal cultural heritage
- ensures Aboriginal people are involved in processes for managing the recognition, protection and conservation of Aboriginal cultural heritage
- establishes a process for the comprehensive study of Aboriginal cultural heritage
- establishes processes for the timely and efficient management of activities to avoid or minimise harm to Aboriginal cultural heritage.

DATSIP is responsible for administering this Act.

A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the Cultural Heritage Duty of Care). A person is taken to have complied with the Duty of Care if they are acting under a Native Title agreement or other agreement with an Aboriginal Party.

Powerlink Queensland has established processes and frameworks for the management of cultural heritage in transmission line development. Powerlink Queensland intends to address any Aboriginal cultural heritage risks and meet its Duty of Care through the development and implementation of Cultural Heritage Management Agreements (CHMAs) with each of the Aboriginal Parties, in accordance with the ACH Act.

A search of the DATSIP database identifies three Aboriginal Parties whose Native Title determinations/claims are intersected by the Draft Alignment:

- Gugu Badhum People #3
- Ewamian People #2
- Ewamian People #3.

Powerlink Queensland is actively engaging with each of these groups to develop CHMAs which will include methodology for the identification and management of Aboriginal cultural heritage sites and values within the final alignment. This is expected to include detailed cultural heritage surveys of the alignment. The DATSIP database also identifies recorded Aboriginal cultural heritage in the vicinity of the alignment - these will be taken into account through the CHMAs.

#### **27.2.7 Queensland Heritage Act 1992**

The objective of the *Queensland Heritage Act 1992* is to provide for the conservation of Queensland's cultural heritage for the benefit of the community and future generations. The *Queensland Heritage Act 1992* is administered by the Department of Environment and Science (DES) and the Queensland

Heritage Council has been established to operate independently, impartially and in the public interest to identify and protect places that have special heritage values to the community and future generations.

The *Queensland Heritage Act 1992* conserves and protects Queensland Heritage Places by:

- establishing heritage registers
- regulating development that may impact on registered places
- establishing a process for reporting discoveries of objects that may be of cultural heritage significance.

Section 89 of the *Queensland Heritage Act 1992* requires a person to notify DES of an archaeological artefact that is an important source of information about an aspect of Queensland history. No known registered historical cultural heritage values have been identified within the Project area. However there is some potential for the Project to impact unidentified historical heritage places or values. To ensure compliance with the Act, Powerlink's Environmental Management Plan includes provision for unexpected finds which will comply with Section 89 of the *Queensland Heritage Act 1992*.

#### **27.2.8 Stock Route Management Act 2002**

The *Stock Route Management Act 2002* provides a framework for management of Queensland's stock routes. Local Government Authorities are responsible for the day to day administration and management of stock routes. The *Queensland Stock Route Network Management Strategy* has been prepared under the Act. The strategy is a tool to link legislative principles with decision making, to ensure a consistent approach.

Stock routes are discussed in Chapter 13 Land Use. There are a number of stock routes traversed by the Draft Alignment, however are identified as minor or disused. The Project is not anticipated to impact on the use of the stock route in the network.

#### **27.2.9 Biosecurity Act 2014**

The *Biosecurity Act 2014* came into effect on 1 July 2016. The Act's intent is to improve Queensland's biosecurity preparedness and response capabilities, and imposes a general biosecurity obligation to all individuals and organisations whose activities pose a biosecurity risk to ensure activities do not spread a pest, disease or contaminant. These responsibilities include:

- taking all reasonable and practical steps to prevent or minimise each biosecurity risk
- minimising the likelihood of the risk causing a biosecurity event and limit the consequences of such an event; and
- preventing or minimising the adverse effects the biosecurity risk could have and refrain from doing anything that might exacerbate the adverse effects.

A biosecurity risk is considered to exist when anyone deals with any pest, disease or contaminant, or with something that could carry one of these factors. This includes, for example, moving diseased plant material, or associated soil or equipment, off a property. Everyone is obligated to take all reasonable and practical steps to minimise the risks associated with invasive plants under their control, known as the general Biosecurity duty of care.

Biosecurity was identified by landholders as a key concern associated with the Project. Ecology surveys of the Draft Alignment identified the presence of a number of biosecurity matters. Existing biosecurity matters, potential impacts and mitigations measures are detailed in Chapter 12 Biosecurity. A detailed pre-construction weed survey will be undertaken prior to construction activities commencing and a post-construction weed survey will be undertaken after the first wet season once construction is finalised. The surveys will occur along the final alignment and associated access tracks and will, where present, identify weeds of national significance, restricted and invasive matters and regionally declared weed species. A Biosecurity Management Plan will be developed to support construction and operation of the Project and to achieve Powerlink Queensland's general biosecurity obligation under the Act.

### 27.2.10 Environmental Protection Act 1994

The objective of the *Environmental Protection Act 1994* (EP Act) is:

*“to protect Queensland’s environment while allowing for development that improves the total quality of life, both now and in the future, in a way that maintains the ecological processes on which life depends”.*

The EP Act is administered by DES. Section 319 establishes the general environmental duty of care which is applicable to the Project. Powerlink Queensland will meet the general environmental duty of care through the implementation of Project specific Environmental Management Plans throughout the construction and operation of the Project.

The Environmental Protection Regulation 2008 (EP Regulation) is subordinate legislation to the EP Act. The EP Regulation identifies activities which will or have the potential to release contaminants into the environment and may cause environmental harm, known as Environmentally Relevant Activity (ERA). Schedule 2 of the EP Regulation identifies the triggers for ERAs.

Construction activities may trigger the following ERAs, depending on the final construction methodology and sources of material required:

- ERA 8 Chemical Storage
- ERA 16 Extractive and Screening Activities.

### 27.2.11 Nature Conservation Act 1992

The *Nature Conservation Act 1992* (NC Act) is the principal legislation for the conservation and management of Queensland’s native flora and fauna, as well as important natural areas such as national parks. The Act is administered by the Department of Environment and Science (DES).

In support of the NC Act, the Nature Conservation (Wildlife) Regulation 2006 lists ‘protected wildlife’ (flora and fauna species), which are considered to be ‘Extinct in the Wild’, ‘Endangered’, ‘Vulnerable’, ‘Near Threatened’ and ‘Least Concern’ wildlife. Under Sections 88 and 89 of the NC Act, it is an offense to take or use protected wildlife, which is outside a ‘protected area’, unless exemptions apply or an approval (e.g. clearing permit) is obtained from the DES.

In Queensland, all plants that are native to Australia are protected plants under the NC Act to prevent whole plants or protected plant parts from being illegally removed from the wild or illegally traded. The protected plants flora survey trigger map shows high risk areas for protected plants and is used to help determine flora survey and clearing permit requirements for a particular location. High risk areas represent areas where Endangered, Vulnerable or Near Threatened plants are known to exist or are likely to exist.

Where clearing occurs within a high risk area, a flora survey is required to determine the presence of protected plants within the clearing impact area. The flora survey must then be lodged with DES to either obtain an approval, or an exemption notice (if none present). A high risk area is present along the Draft Alignment in the vicinity of Mount Fox. A survey was undertaken in line with the relevant guidelines, and determined no protected plants were present within the clearing impact area. Powerlink Queensland will obtain an exemption notice prior to construction. An exemption notice must be applied for within 12 months of completion of the survey.

During the course of ecology surveys completed across the Draft Alignment, a protected plant was identified outside of the proposed area to be cleared, and outside of a high risk area. This species is discussed further in Chapter 9 Flora. As the species is not proposed to be cleared, no permit is required. Measures to protect the species for incidental impact are included within the Environmental Management Plans, discussed further in Chapter 27 Environmental Management.

### 27.2.12 Fisheries Act 1994

The purpose of the *Fisheries Act 1995* is to ensure the State manages Queensland’s fisheries are economically viable, social acceptable and ecologically sustainable. The definition of ‘waterways’ under the Act is broad and a Queensland-wide spatial data set has been developed to better delineate this. Generally, a waterway under the Act is determined by their presence on this spatial layer

mapping. This layer includes rivers, creeks, streams, watercourse or inlets of the sea. The *Fisheries Act 1994* is administered by DAF.

The Draft Alignment crosses a number of waterways and depending on the final construction methodology may require a development permit under the *Planning Act 2016* for waterway barrier works for compliance with Accepted Development Requirements.

#### **27.2.13 Forestry Act 1959**

The *Forestry Act 1959* provides for forest reservations, the management, silvicultural treatment and protection of State forests, and the sale and disposal of forest products and quarry material, the property of the Crown on State forests, timber reserves and on other lands; and for other purposes. The Act is administered primarily by the DAF.

The Draft Alignment does not traverse any State forests, nor propose to sell or dispose of forestry products. Quarry material will be required for the construction of the Project. In most instances material will be obtained from an existing licence source, however in some locations extraction of material may be required due to locational factors. Where a new source of quarry material is required, the suitable permits and licences will be obtained.

#### **27.2.14 Vegetation Management Act 1999**

The *Vegetation Management Act 1999* (VM Act) is administered by DNRME and establishes the vegetation management framework for Queensland. The VM Act regulates the clearing of native vegetation throughout Queensland with the purpose to maintain or increase biodiversity, maintain ecological processes, allow for sustainable land use and ensure clearing does cause land degradation. The Queensland Herbarium mapping identifies remnant vegetation across the State.

Chapter 9 Flora detailed the vegetation values within the Project area. Mapped native vegetation will be required to be cleared as a part of the Project. The assessment of clearing native vegetation forms part of the Infrastructure Designation Process under the *Planning Act 2016*. Where a designation is granted for a Project, assessable development items (such as clearing native vegetation) become accepted development under the *Planning Act 2016* and therefore a Development Permit is not required.

#### **27.2.15 Water Act 2000**

The *Water Act 2000* is administered by DNRME and provides the legislative framework for planning, allocation and use of surface water and groundwater in Queensland. The purpose of the *Water Act 2000* is to ensure sustainable management of watercourses and associated resource.

The *Water Act 2000* watercourse identification mapping identifies the following features: a watercourse, the downstream limit of a watercourse, a drainage feature, a lake and a spring. The determination of these features regulates the assessment requirements. Activities occurring within a designated watercourse have the potential to require a form of approval under the *Water Act 2000* or the *Planning Act 2016*. In most cases, accepted development requirements (formerly known as self-assessable codes) are likely applicable to the works.

There are a number of declared watercourses traversed by the Draft Alignment, as well as a number of 'yet to be determined' watercourses, which likely fit the characteristics of a 'watercourse' under the Act.

Compliance with accepted development requirements and exemption requirements will be achieved in most cases through implementation of the Construction Environmental Management Plan, and where this is not the case, the necessary approvals under the *Water Act 2000* or the *Planning Act 2016* will be obtained.

#### **27.2.16 Planning Act 2016**

The purpose of the *Planning Act 2016* is to providing for an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning and development assessment to facilitate the achievement of ecological sustainability. The *Planning Act 2016* is primarily managed by DSDMIP.

The Act allows for the Minister to designate premises for the development of infrastructure prescribed within the Planning Regulation 2017. The Planning Regulation 2017 prescribes a number of

developments considered ‘infrastructure’, one of which is “electricity operating works”. Infrastructure subject to the designation is detailed in Chapter 3 Project Description, and includes the transmission line and substation.

Other temporary approvals such as workers accommodation were unknown at the time of designation, and will fall outside of this approval, and therefore be subject to the ordinary provisions of the *Planning Act 2016*.

## 27.3 State Planning Instruments

State planning instruments set out the state and regional planning interests critical to responsible land-use planning and development across Queensland. The state government sets out the state and regional planning matters to be preserved and protected (the state interests). It uses two types of instruments, or tools, to do this:

- the State Planning Policy
- the regional plans.

### 27.3.1 State Planning Policy

The State Planning Policy 2017 (SPP) identifies state-wide planning matters requiring protection and enhancement. The SPP is at the top of the planning hierarchy in Queensland, and prevails over all other Regional and Local Planning Instruments. The SPP states that the SPP applies to the extent relevant when designating premises for infrastructure under the *Planning Act 2016*.

The SPP outlines 17 state interests that are arranged under five broad themes. Each theme has a number of individual state interests policies within each. Individual State interests, and their relevance, are identified in Table 27-1 below.

**Table 27-1 Applicability of State Interests within State Planning Policy**

Theme	State Interest	Relevant	Relevant Section of EAR
Liveable Communities and Housing	Housing Supply and Diversity	N/A	N/A
	Liveable Communities	N/A	N/A
Economic Growth	Agriculture	<b>Applicable</b>	<b>Chapter 13 Land Use</b>
	Development and Construction	N/A	N/A
	Mining and Extractive Resources	<b>Applicable</b>	<b>Chapter 4 Land</b>
	Tourism	N/A	N/A
Environment and Heritage	Biodiversity	<b>Applicable</b>	<b>Chapter 9 Flora, Chapter 10 Fauna</b>
	Coastal Environment	N/A	N/A
	Cultural Heritage	<b>Applicable</b>	<b>Chapter 16 Indigenous Cultural Heritage, Chapter 17 Non-Indigenous Cultural Heritage</b>
	Water Quality	<b>Applicable</b>	<b>Chapter 7 Hydrology</b>
Safety and Resilience to Hazards	Emissions and Hazardous Activities	<b>Applicable</b>	<b>Chapter 20 Hazards, Health and Safety</b>

Theme	State Interest	Relevant	Relevant Section of EAR
	Natural Hazards, Risk and Resilience	<b>Applicable</b>	<b>Chapter 7 Hydrology, Chapter 22 Bushfire Risk</b>
Infrastructure	Energy and Water Supply	<b>Applicable</b>	<b>Chapter 24 Infrastructure</b>
	Infrastructure Integration	N/A	N/A
	Transport Infrastructure	<b>Applicable</b>	<b>Chapter 18 Transport</b>
	Strategic Airport and Aviation Facilities	N/A	N/A
	Strategic Ports	N/A	N/A

### 27.3.2 Regional Plans

The Draft Alignment is subject to two regional plan areas. At the time of writing this EAR, neither area is subject to a statutory regional plan. The regional plan areas include:

- North Queensland Regional Plan
- Gulf Regional Development Plan.

#### 27.3.2.1 North Queensland Regional Plan

The eastern half of the Draft Alignment (from Mount Fox to west of Greenvale) is located within the North Queensland Regional Plan area. The North Queensland Regional Plan is currently being drafted by DSDMIP.

At the time of drafting this EAR, the draft was unavailable, and therefore no assessment has been undertaken against the objectives of the plan.

#### 27.3.2.2 The Gulf Regional Development Plan

The western half of the Draft Alignment (from west of Greenvale to Kidston) is located within the Gulf Regional Development Plan area (Queensland Government, 2017). In November 2000 the Gulf Regional Development Plan was released by the Queensland Government. The purpose of the Plan is a non-statutory planning instrument that is used to provide a long-term strategic direction to guide the development within the Gulf Region to ensure good planning outcomes are achieved which balance social, economic and environmental values.

The Gulf Regional Development Plan has established strategies, recommendations and priority actions to address the key issues within the region. These strategies are intended to provide guidance as to new directions in policy development and implementation, as well as making use of existing organisational and administrative structures. The Project does not materially conflict with any of the identified strategies.

## 27.4 Local Planning Instruments

There are three Local Government Authorities (LGAs) traversed by the Draft Alignment. Each LGA is subject to a Local Planning Instrument under the *Planning Act 2016* and has local laws in force under the *Local Government Act 2009*. The relevant LGA, the Local Planning Instrument and Local Laws are identified in Table 27-2 below; these are discussed in the following sections respectively.

**Table 27-2 Local Planning Instruments traversed by the draft alignment**

LGA	Local Planning Instrument	Relevant Local Laws
Etheridge Shire Council	Planning Scheme for the Shire of Etheridge 2005	<ul style="list-style-type: none"> <li>Local Law No. 3 – Community and Environmental Management</li> <li>Local Law No. 4 – Local Government Controlled Areas, Facilities and Roads</li> </ul>
Charters Towers Regional Council	Planning Scheme for Dalrymple Shire 2006	<ul style="list-style-type: none"> <li>Local Law No. 1.1 – Alternation or Improvement to Local Government Controlled Areas and Roads</li> <li>Local Law No. 1.15 Carrying Out Works on a Road or Interfering with a Road or its Operation</li> <li>Local Law No. 3 – Community and Environmental Management</li> <li>Local Law No. 4 – Local Government Controlled Areas, Facilities and Roads</li> </ul>
Hinchinbrook Shire Council	Hinchinbrook Shire Planning Scheme 2017	<ul style="list-style-type: none"> <li>Local Law No. 3 – Community and Environmental Management</li> </ul>

#### 27.4.1 Etheridge Shire Council

##### 27.4.1.1 Local Planning Instrument

The Planning Scheme for the Shire of Etheridge 2005 (Etheridge Planning Scheme) was adopted in October 2005 as an *Integrated Planning Act 1997* planning scheme. The Etheridge Planning Scheme identifies that no State Planning Policy is directly reflected in the scheme, and therefore the SPP prevails to any inconsistency.

The Etheridge Planning Scheme zones the Draft Alignment as entirely 'Rural'. The Etheridge Planning Scheme attributes the following definition to the Project:

*“Community Infrastructure” means the use of premises for any undertaking for the supply of water, hydraulic power, electricity, gas, telephone, sewerage, sewerage treatment plant, drainage, refuse collection, refuse disposal, transport services and emergency services.*

In the Rural zone, a Community Infrastructure use is assessable development, subject to code assessment. Code assessment requires an assessment to be carried out against the assessment benchmarks in the Local Planning Instrument as they relate to the development.

Assessment benchmarks identified as application to this use definition include:

- General Development Code
- Rural Zone Code
- Community Infrastructure Zone Code.

The Rural Zone Code states a Community Infrastructure use is considered to be consistent with the Overall Outcomes sought by the Rural Zone. Overall the Project is compliant with the requirements of the code provisions. Key items include minimising impacts to natural, cultural and amenity values of the Rural Zone.

The Community Infrastructure Code largely relates to uses within the Community Infrastructure Zone of the Etheridge Planning Scheme, however has been attributed council wide for development of Community Infrastructure uses. Of relevance to the Project is the provisions on Operation and Provision of Infrastructure.

The Project will not include any new provision of water, sewer or road infrastructure. Access tracks may be required in locations along the alignment where none exist. This will be undertaken in consultation with the relevant land owners, and Council, where access is required from a local government road.

Construction and operational phase traffic will utilise the local government road as detailed in Chapter 18 Traffic and Transport. A road user agreement, and Traffic Management Plan will be developed to manage and mitigate impacts to the local government roads.

The provisions of the General Development Code generally deal with adequate provision of infrastructure in association with a land use. The majority of the provisions are not applicable for the transmission line component of the Project, with the exception of site access and construction phase management. These elements will be appropriately addressed through planning for the construction phase and through construction environmental management plans. No council infrastructure will be required to support the transmission line component.

The Copperfield River substation will require access from Local Government roads, however is based within the already approved footprint of the Kidston Solar Farm Stage Two. Where new access points are required from Local Government roads, consultation will be undertaken with Etheridge Shire Council. The Copperfield River substation will not require any utility connections from Etheridge Shire Council.

There are a number of overlays also included with the Etheridge Planning Scheme, of relevance to the Project, include:

- Good Quality Agricultural Land
- Bushfire Management.

The Good Quality Agricultural Land Overlay Code relates to management of land use impact to mapped Good Quality Agricultural Land. Since the adoption of the Etheridge Planning Scheme, the SPP has prescribed differing concepts in relation to agricultural land, being Class A and B agricultural land. Potential impacts and mitigation measures are discussed further in Chapter 13 Land Use.

Potential impacts and mitigations of bushfire hazards are discussed in Chapter 22 Bushfire. Mitigations and management will be employed through design, construction, operation and maintenance to reduce the potential impact of bushfire events.

#### **27.4.1.2 Local laws**

One local law has been identified as being applicable to the Project within Etheridge Shire Council. Local Law No. 3 – Community and Environmental Management, deals with key matters, including:

- Animal and plant rests
- Vegetation management
- Visual pollution
- Fire hazards
- Community safety hazards
- Noise management.

The key matters are associated with environmental management. These matters are addressed within the Environmental Management Plan, which is discussed further in Chapter 27 Environmental Management.

#### **27.4.2 Charters Towers Regional Council**

##### **27.4.2.1 Local Planning Instrument**

The Dalrymple Shire Planning Scheme 2006 (Charters Towers Planning Scheme) was adopted in August 2006 as an *Integrated Planning Act 1997* planning scheme. The Charters Towers Planning Scheme identifies that the SPP has not been integrated in the planning scheme, and therefore the SPP prevails to any inconsistency.

The Charters Towers Planning Scheme zones the Draft Alignment as entirely 'Rural'. The Charters Towers Planning Scheme attributes the following definition to the Project:

*“Major Utility” means premises used for the purposes of any installation or undertaking for:*

- (a) the generation and/or supply of electricity or gas;*
- (b) the storage and/or treatment of water, sewerage or garbage;*
- (c) the provision of Shire-wide or regional community services such as major sports stadiums, convention centres and the like;*
- (d) public transport facilities by way of depots, workshops or offices;*
- (e) a prison, reformatory or similar institutional establishment;*
- (f) a dept operated by or for the Council, other public authority or statutory corporation;*
- (g) air or water landing facilities... “*

In the Rural zone, a Major Utility use is assessable development, subject to impact assessment. Impact assessment requires an assessment be carried out against benchmarks in the Local Planning Instrument. The Charters Towers Planning Scheme identifies the assessment benchmarks for a Major Utility as ‘the Planning Scheme’ as relevant to the development. No overlays within the Charters Towers Planning Scheme are considered applicable to the Project.

The overall outcomes of the Rural Planning Area Code states that the establishment of non-rural development will not be encouraged unless there is no viable alternative location and the establishment of the development will not detrimentally affect rural amenity. The location of the draft alignment is the outcome of a corridor selection process which is discussed in Chapter 2 – Project Justification. The Project has been co-located with existing infrastructure to avoid further fragmentation and impact on rural amenity. With the mitigation through design employed, and the construction phase management (discussed in Chapter 26 Environmental Management) detrimental impacts to rural amenity are not anticipated to result from the Project.

#### **27.4.2.2 Local laws**

Three local laws have been identified as being applicable to the Project within Charters Towers Regional Council. The following local laws and the key matters of relevance are listed below.

- Local Law Number 1.1 – Alternation or Improvement to Local Government Controlled Areas and Roads
  - Alternations of improvements to local roads.
- Local Law Number 1.15 Carrying Out Works on a Road or Interfering with a Road or its Operation
  - Carrying out works or interfering with a road.
- Local Law Number – Community and Environmental Management
  - Declaration and management of local pest species.
  - Vegetation management.
  - Noise management.
  - Fire management.

Matters associated with local road management and mitigation will be addressed through the provision of a road user agreement with Charters Towers Regional Council, and a Traffic Management Plan. Matters associated with environmental management are discussed further in Chapter 26 Environmental Management.

#### **27.4.3 Hinchinbrook Shire Council**

##### **27.4.3.1 Local planning instrument**

The Hinchinbrook Shire Planning Scheme 2017 (Hinchinbrook Planning Scheme) was adopted in July 2018 under the *Planning Act 2016*. The 2017 SPP has not been integrated into the Hinchinbrook Planning Scheme and therefore the SPP prevails to any inconsistency.

The Hinchinbrook Planning Scheme zones the Draft Alignment, and Mount Fox Substation as Rural. The Hinchinbrook Planning Scheme attributes the following definition to the Project.

*...Major electricity infrastructure—*

*1) means the use of premises for—*

- (i) a transmission grid or supply network; or*
- (ii) a telecommunication facility, if the use is ancillary to the use in subparagraph...*

Major Electricity Infrastructure within the Rural zone is identified as Accepted Development. Under the *Planning Act 2016* accepted development is development for which a development approval is not required. On this basis, no further consideration has been given to the Hinchinbrook Planning Scheme.

#### **27.4.3.2 Local laws**

One local law has been identified as being applicable to the Project within Hinchinbrook Shire Council. The following local laws and the key matters of relevance are listed below.

- Local law number 3 – Community and Environmental Management
  - Management of local pest species
  - Fire management
  - Noise management.

Matters associated with environmental management are addressed in Chapter 26 Environmental Management.

## 27.5 Summary of Legislative Triggers

Table 28-1 Summary of legislative requirements

Legislation	Responsible Authority	Activity	Licence / Permit / Approval
<b>Commonwealth</b>			
<i>Environment Protection and Biodiversity Conservation Act 1999</i>	DoEE	Potential Significant Impact on MNES.	EPBC Referral.
<b>State</b>			
<i>Environmental Protection Act 1994</i>	DES	<ul style="list-style-type: none"> <li>ERA 8 Chemical Storage</li> <li>ERA 16 Extractive and Screening Activities.</li> </ul>	Environmental Authority.
<i>Fisheries Act 1994</i>	DES	Waterway barrier works within a waterway.	Development Permit if the Accepted Development Requirements cannot be met.
<i>Nature Conservation Act 1992</i>	DNRME	Clearing protected plants.	Clearing Permit if protected plant is found during construction or prior to.
		Clearing within a high risk flora trigger area.	Exempt Clearing Notification as no protected plants were identified.
<i>Transport Infrastructure Act 1994</i>	DTMR	Undertaking works within a State-controlled Road Corridor.	Section 102 <i>Electricity Act 1994</i>
<i>Water Act 2000.</i>	DNRME	Undertaking works within a watercourse which involves the extraction or fill, removal of vegetation or the diversion of a watercourse.	Riverine Protection Permit.
<b>Local</b>			
Planning Scheme for the Shire of Etheridge 2005	Etheridge Shire Council	Construction of workers camp.	Development Permit (Code Assessable).
Planning Scheme for Dalrymple Shire	Charters Towers	Construction of workers camp.	Accepted Development (Subject

Legislation	Responsible Authority	Activity	Licence / Permit / Approval
2006	Regional Council		to Requirements).
Hinchinbrook Shire Planning Scheme 2017	Hinchinbrook Shire Council	Construction of workers camp.	Development Permit (Code Assessable).