

Appendix C

Description of Commonwealth and State Legislation

Calvale to Calliope River Transmission Line Reinforcement Project

EPBC 2024/10044

Description of Commonwealth and State Legislation

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1. Commonwealth

1.1 Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the principal piece of federal environmental legislation in Australia and is administered by the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW). The EPBC Act provides for the protection of the environment by regulating activities that may impact on nine matters of national environmental significance (MNES), which include:

- listed threatened species and communities
- listed migratory species
- Ramsar wetlands of international importance
- Commonwealth marine areas
- world heritage properties
- national heritage places
- the Great Barrier Reef Marine Park
- nuclear actions
- a water resource, in relation to coal seam gas development and large coal mining development.

Under the EPBC Act, where a proposed action will have, or is likely to have, a significant impact on one or more MNES the proponent must refer the matter to the Commonwealth Minister for the Environment for assessment of the potential impacts. The Commonwealth Minister for the Environment will decide whether the proposed action is:

- not a controlled action (the Project does not need to be assessed any further)
- not a controlled action ‘particular manner’ (the Project does not need to be assessed any further, providing that the action is undertaken in accordance with conditions that are supplied with the decision)
- controlled action (the Project will need to be assessed against the EPBC Act, through one of several mechanisms available depending on the type of project).

Where a controlled action is approved by the Commonwealth Minister for the Environment, the approval may include a range of conditions that seek to minimise and monitor the impact of the action on affected MNES values. This may include the provision of environmental offsets in accordance with the EPBC Act Environmental Offsets Policy to counterbalance any significant impacts that remain after the application of avoidance and mitigation measures to the Project’s design.

A referral for the Project was made under the EPBC Act on 6 January 2025. The delegate for the Australian Minister for the Environment and Water determined that the Project is a controlled action for likely significant impacts on the following MNES that are protected under Part 3 of the EPBC Act, and are hence controlling provisions applicable to the action:

- World Heritage properties (sections 12 and 15A)
- National Heritage places (sections 15B and 15C)
- Listed threatened species and communities (sections 18 and 18A)
- Great Barrier Reef Marine Park (sections 24B and 24C).

The Project will require approval under the EPBC Act through the preparation and assessment of a Public Environment Report (PER). DCCEEW prepared Guidelines for the Content of a Draft PER which were issued on 24 March 2025.

1.2 Native Title Act 1993

The Commonwealth *Native Title Act 1993* (Native Title Act) provides for the recognition and protection of traditional rights and interests in land and waters held by the Aboriginal and Torres Strait Islander people under their traditional laws and customs. Native title rights are determined under the common law of Australia. Any acts or dealings in relation to land and waters subject to native title are only valid if they comply with the provisions of the Native Title Act.

Acts relating to Powerlink's electricity transmission lines are generally covered by processes under section 24KA. Section 24KA validates future acts that consist of the construction and operation of public infrastructure and suppress the native rights over the land for the duration of the easement. The non-extinguishment principle applies under section 24KA.

2. State

2.1 Building Act 1975

The *Building Act 1975* (Building Act) governs all building work in Queensland. The Act is intended to regulate building development approvals, building work, building classification, building certifiers and pool safety inspectors, and to provide for particular matters about swimming pool safety and sustainable buildings, and for other purposes. The Building Act will apply to the extent of any buildings and structures that are to be constructed for the Project (e.g. transmission tower).

2.2 Planning Act 2016

The *Planning Act 2016* (Planning Act) establishes a framework and overarching policy for land use planning and development assessment in Queensland. The purpose of the Planning Act is to provide 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 and Planning Regulation 2017 (Planning Regulation) describes the type of development, the level of assessment required for particular development, responsible entity for assessing development, assessment benchmarks, as well as the process for making, assessing and deciding development applications.

2.2.1 Ministerial Infrastructure Designation

The Planning Act enables the Planning Minister to designate premises for the development of infrastructure prescribed within the Planning Regulation. Electricity operating works are considered infrastructure, which is prescribed development under the Planning Regulation. The Planning Minister is the only State minister with authority to designate land for infrastructure. The Minister's Guidelines and Rules outlines the process for making Ministerial Infrastructure Designations (MID). The assessment process involves submission of a detailed proposal, a minimum 15-day consultation period and a State interest review.

A MID includes requirements about works for the infrastructure (such as the height, shape, bulk, landscaping, or location of works), the use of premises including access and ancillary uses, or lessening the impact of the works or use (such as environmental management procedures). Under section 44 of the Planning Act, infrastructure that is designated is considered accepted development and will not require further approvals under the Planning Act (with the exception of building work under the *Building Act 1975*). However, this exemption does not apply to approvals required under other legislation.

A MID Proposal was lodged to the Department of State Development, Infrastructure and Planning on 21 October 2025 for assessment.

2.2.2 State Planning Policy

The State Planning Policy (2017) (SPP) sets out the framework of 17 State interests that are relevant to the assessment of development in Queensland. The SPP applies, to the extent relevant, to development applications and designated infrastructure under the Planning Act and prevails over all regional and local planning instruments. The MID Proposal includes a detailed assessment against the relevant State interests being Agriculture, Development and Construction, Biodiversity, Coastal Environment, Emissions and Hazardous Activities, Natural Hazards, Risk and Resilience and Energy and Water Supply. The assessment of the SPP relevant benchmarks concluded that the MID proposal aligns with both the guiding principles and the applicable state interests.

2.2.3 Regional Plans

The Project Area is subject to the Central Queensland Regional Plan (CQRP). The CQRP commenced in 2013, providing policy responses to resolve the region's most important issues affecting its economy and the liveability of its towns. The CQRP specifically provides direction to resolve competing State interests relating to the agricultural and resources sectors, and to enable the growth potential of the region's towns.

The new transmission line is consistent with the aim of the CQRP to promote renewable energy generation, in order to provide reliable energy which supports growth in an economically and ecologically sustainable manner. The CQRP states that development in regional landscapes needs to be responsibly planned to complement, protect, and enhance landscape values, including areas of significant biodiversity value, rural production, scenic amenity, and landscape heritage. The Project design process has aimed to minimise impacts upon land uses by investigating opportunities for collocation with existing infrastructure.

2.3 Aboriginal Cultural Heritage Act 2003

The *Aboriginal Cultural Heritage Act 2003* (ACH Act) seeks to provide effective recognition, protection and conservation of Aboriginal cultural heritage. It establishes processes for managing activities that may have the potential to cause harm to Aboriginal cultural heritage.

A search of the DTATSIPICA database has identified a number of records of Aboriginal cultural heritage values within the Project Area. Powerlink will be responsible for meeting the Duty of Care established under the ACH Act and Duty of Care Guidelines by taking all reasonable and practicable measures to ensure the activities do not harm Aboriginal cultural heritage.

Should the Project be considered to pose a high risk to Aboriginal cultural heritage, engagement with the relevant Aboriginal parties for the area is likely to be required. It also may necessitate preparation of a cultural heritage management plan or cultural heritage management agreements (CHMA) with the parties. Powerlink currently has a 'Whole-of-Country' CHMA with the Gangulu Nation People (GNP) and are currently in the process of negotiating a CHMA 'Whole-of-Country' CHMA with the Bailai, Gurang, Gooreng Gooreng, Taribelang Bunda People (BGGTB).

Activities which pose a high risk to Aboriginal cultural heritage that may apply to the Project include:

- works in proximity to registered Aboriginal cultural heritage sites or places, or within places with known cultural heritage values
- works within areas with little or no previous ground disturbance (e.g. clearing of remnant vegetation, escarpments)
- works in proximity to water features, such as riparian areas.

2.4 Acquisition of Land Act 1967

The *Acquisition of Land Act 1967* (Acquisition of Land Act) sets out the processes for compulsory and voluntary acquisition of land for a public purpose by a constructing authority. A constructing authority is defined in schedule 2 of the *Acquisition of Land Act*. Powerlink is a constructing authority and may acquire freehold land or register an easement over land for the new transmission line. Land may be acquired either by voluntary agreement for easements or other tenures required or, where agreement cannot be reached, by compulsory resumption of land.

2.5 Electricity Act 1994

The *Electricity Act 1994* (Electricity Act) is the principal legislation governing Queensland's electricity industry. It provides a framework for all electricity industry participants to follow to ensure the efficient, economically and environmentally sound supply and use of electricity. Powerlink must comply with the conditions set for transmission authorities under section 31 of the Electricity Act. Specifically, it states that the transmission entity must properly account for the environmental effects of its activities under the transmission authority.

Requirements for construction and operation of the electricity network are in the Electricity Act and subordinate legislation including the Electricity Regulation 2006. A number of activities related to the construction and operation of electricity infrastructure are exempt from approval. In particular, the clearing of native vegetation on freehold land is exempt development if the clearing is for operating works for a transmission entity on land subject to a designation for operating works under the Planning Act.

The legislative requirements of the Electricity Act are standard to Powerlink processes.

2.6 Electricity Safety Act 2002

The *Electricity Safety Act 2002* (Electricity Safety Act) seeks to prevent the potential death, injury or destruction caused by electricity. The Electricity Safety Act regulates electricity works to prevent persons from being killed or injured by electricity, and to prevent property from being destroyed by electricity. The new transmission line must be designed in compliance with the requirements outlined under the Electricity Safety Act. The legislative requirements of the Electricity Safety Act are standard to Powerlink processes and are a low risk to the Project.

2.7 Environmental Offsets Act 2014

The main purpose of the *Environmental Offsets Act 2014* (Environmental Offsets Act) is to counterbalance the significant residual impacts of activities on prescribed environmental matters using environmental offsets. The Environmental Offsets Act is administered by the Department of Environment, Tourism, Science and Innovation (DETSI) and is supported in achieving its purpose by the Environmental Offsets Regulation 2014 (Environmental Offsets Regulation).

Schedule 2 of the Environmental Offsets Regulation identifies prescribed environmental matters for which offsets may be required where it is determined that an activity will have a significant residual impact on these matters. Prescribed environmental matters under the Environmental Offsets Regulation include environmental matters that are protected under a range of Queensland's environmental legislation, including the *Fisheries Act 1994* (Fisheries Act), *Nature Conservation Act 1992* (NC Act) and *Vegetation Management Act 1999* (VM Act). Where offsets are determined to be applicable to an activity they are typically required as a condition of a development approval and must be delivered in accordance with the Queensland Environmental Offsets Policy.

Provisions exist under the Environmental Offsets Act to avoid the duplication of offsets conditions between government jurisdictions and State government departments. Under these provisions:

- the State Government cannot impose an offset condition for a prescribed environmental matter if the same or substantially the same impact or matter has been subject to assessment under the EPBC Act, regardless of whether an offset condition was imposed by the Commonwealth or not
- when considering whether to apply an offset condition a State Government agency must consider whether a relevant offset condition that has already been imposed is for substantially the same impact or matter.

Further, in the event that duplicate offset conditions are imposed by different State Government departments an applicant may apply to the relevant department to remove these offset conditions.

Matters relevant to the Project that may require environmental offsets under the Environmental Offsets Regulation include the following prescribed environmental matters:

- regulated vegetation
- connectivity areas
- wetlands and watercourses
- protected wildlife habitat
- protected areas
- waterways providing for fish passage
- marine plants.

Environmental offset liabilities under the Environmental Offsets Act for the Project are in the process of being confirmed.

2.8 Environmental Protection Act 1994

The *Environmental Protection Act 1994* (EP Act) is administered by the DETSI and operates as the key legislative framework for environment protection and management in Queensland, through a number of mechanisms to monitor and enforce environmental compliance. Section 319 establishes a general environmental duty of care, which Powerlink are obliged to meet when undertaking works and operations of their electrical infrastructure. The duty states that an organisation undertaking an activity must not cause, or be likely to cause, environmental harm unless all reasonable and practicable measures to prevent or minimise the harm are taken.

Powerlink may exercise this duty of care through the development of preliminary studies, subsequent environmental assessment reports and project-specific environmental management plans implemented throughout the construction and operational stages of the Project.

The Environmental Protection Regulation 2019 is subordinate to the EP Act and identifies Environmentally Relevant Activities (ERAs) in schedule 2, which have the potential to release contaminants into the environment or cause environmental harm. No ERA's are anticipated for the construction and operation of the Project.

The EP Act includes provisions for the management, treating and disposal of contaminated soil. Where required, Powerlink will be required to obtain a soil disposal permit under the EP Act.

2.9 Fisheries Act 1994

The Fisheries Act establishes the framework for the management, use, development and protection of Queensland's fisheries resources and fish habitat, and is administered by the Department of Primary Industries. The Fisheries Act is supported by a range of subordinate legislation and the Planning Act, which provides for the consideration of fisheries values through the assessment of development.

The Fisheries Act regulates fisheries development, which includes:

- the construction and raising of waterway barrier works
- the protection and management of marine plants
- the cultivation of fisheries resources through aquaculture
- the declaration and protection of high value fish habitat areas.

Specific permitting and approval requirements relating to fisheries development that is relevant to the Project are discussed in further detail in the following sections.

2.9.1 Waterway Barrier Works

Waterway barrier works are works that may constrain the movement of fish within and through waterways, injure fish or impact fish habitat values. Examples of waterway barrier works include structures such as dams, weirs, culverts and some bridges. Waterways that provide for fish habitat and fish passage are defined under the Fisheries Act and categorised based on the risk of impact to fisheries values.

The proposed transmission corridor is mapped as intersecting waterways for waterway barrier works. Under Schedule 10 of the Planning Regulation, operational work that is constructing or raising waterway barrier works is assessable development unless the work complies with the Accepted development requirements for operational works that is raising or constructing waterway barrier works. Assessable development for waterway barrier works requires a development permit and is assessed against State Code 18: Constructing or raising waterway barrier works in fish habitats.

Under section 44 of the Planning Act, where a MID is granted, the specified work would automatically be considered accepted development. Notwithstanding this, the Project's design should consider the requirements for assessable development. Construction works will also be required to comply with management and control measures identified in the MID approval conditions.

2.10 Forestry Act 1959

The *Forestry Act 1959* (Forestry Act) is the principal legislation governing the management and protection of Queensland's State forests. It provides a framework for the reservation, management, silvicultural treatment, and protection of State forests, as well as the sale and disposal of forest products and quarry material. The Project traverses two State forests being the Calliope Range State Forest and Mount Stowe State Forest.

Requirements for the management and protection of State forests are detailed in the Forestry Act and subordinate legislation. This includes provisions for the appointment and qualifications of forest officers, the classification and reservation of forest lands, and the powers and duties of forest officers.

A number of activities related to forest management are streamlined under the Forestry Act. For instance, certain activities such as the sale and disposal of forest products are regulated to ensure sustainable use of forest resources.

Powerlink will be required to obtain an easement for parts of the Project located within Calliope Range State Forest and Mount Stowe State Forest to facilitate the Project.

2.11 Land Act 1994

The *Land Act 1994* (Land Act) governs the allocation and management of land for development including non-freehold, freehold, leasehold and other tenures. The transmission corridor options traverse a mix of freehold tenure and local road reserves and State-controlled road reserves. The Electricity Act provides some exemptions to the Land Act for works by transmission entities such as Powerlink. Transmission entities are entitled to take necessary action in publicly controlled places (such as unallocated State land) to provide or supply electricity under section 101 of the Electricity Act, as well as undertake works on road reserves through written agreement from the road authority under section 102.

2.12 Nature Conservation Act 1992

The *Nature Conservation Act 1992* (NC Act) is administered by the DETSI and provides the framework for the conservation of nature in Queensland. The NC Act seeks to achieve this outcome by establishing an integrated and comprehensive conservation strategy for the whole of the state that provides for the:

- protection of native species and their habitat
- dedication, declaration and management of protected areas
- ecologically sustainable use of protected wildlife and areas
- gathering of information
- education of the community and the cooperative involvement of landholders
- recognition of the role of Aboriginal and Torres Strait Islander peoples in nature and conservation.

The NC Act is supported by several pieces of subordinate legislation that provide for the listing of protected species, regulate the taking and keeping of native species, manage protected areas and support the conservation of particular species.

Specific permitting and approval requirements under the NC Act and its subordinate legislation relevant to the Project are discussed in further detail in the following sections.

2.12.1 Species Management Program

Under the NC Act, a Species Management Program (SMP) is required for the authorisation of activities that will impact on breeding places of animals that are classified as extinct in the wild, critically endangered, endangered, vulnerable, near threatened (EVNT), special least concern, a colonial breeder or least concern wildlife. A SMP must be registered with the DETSI prior to commencement of activities impacting on protected animal breeding places. Further, all registered entities with an SMP are required to maintain an Animal Breeding Place register.

2.12.2 Damage Mitigation Permit

The NC Act restricts the unlawful take, keep or use of protected wildlife in Queensland. A damage mitigation permit is required where it is necessary to take wildlife in the following circumstances:

- the lethal take of flying foxes
- the removal and relocation of wildlife
- the culling and dispersal of wildlife.

To obtain a damage mitigation permit, it must be demonstrated that the taking of wildlife is necessary and all reasonable steps have been taken to avoid the take of wildlife. Accordingly, should any of the above activities be required within the corridor to facilitate the development of the Project a damage mitigation permit will be required.

2.12.3 Clearing of Protected Plants

Areas that are considered high risk for the presence of EVNT flora species are mapped on the DETSI flora survey trigger map. A flora survey prepared by a suitably qualified and experienced professional to determine the presence of EVNT flora species is required where development involves clearing work within a mapped high risk area on the flora survey trigger mapping. The Flora Survey Guidelines – Protected Plants describes the required survey and reporting requirements for the clearing of protected plants. A protected plant clearing permit must be obtained prior to the commencement of clearing works where the presence of EVNT flora species is confirmed.

Accordingly, a flora survey of the clearing impact area, including a 100 m buffer, will be required. A flora survey report, impact management plan (to monitor and control impacts associated with clearing) and clearing permit will be required if protected plants are identified within the survey area. Clearing of land must be undertaken within 12 months of obtaining the flora survey trigger map for the proposed clearing area. Therefore, a further copy of the flora survey trigger map should be requested prior to the commencement of works.

2.12.4 Applying for an Authority

Where the construction and operation of service facilities, such as transmission lines and other infrastructure is proposed in a protected area, it is only permitted in circumstances where specific statutory criteria have been met, and an authority has been granted, made, issued or given under sections 34, 35 or 35A of the NC Act.

Part of the Project is located within a protected area being the Calliope Conservation Park. The relevant authority (section 34) under the NC Act is currently being sought from DETSI to facilitate the construction and operation of the transmission line.

2.13 State Development and Public Works Organisation Act 1971

State Development Areas are declared under section 77 of the *State Development and Public Works Organisation Act 1971* (SDPWO Act). State development areas are clearly defined areas of land established by the Coordinator-General to promote economic development in Queensland. They typically take the form of one of the following:

- industrial hubs for development requiring larger footprints strategically located close to ports or major rail and road networks
- infrastructure corridors for the collocation of infrastructure
- major development sites and public works.

The proposed transmission corridor intersects the Gladstone State Development Area (GSDA) and Callide Infrastructure Corridor State Development Area (CICSDA). Development approvals are required for the Project under the GSDA Development Scheme and CICSDA Development Scheme. These development approvals will be sought from the Coordinator-General.

The MID Proposal under the Planning Act assessed the Project against the relevant provisions of the development schemes for the GSDA and CICSDA. The assessment concluded that the Project complies with the relevant visions and objectives of the GSDA and CICSDA.

2.14 Transport Infrastructure Act 1994

The *Transport Infrastructure Act 1994* (TI Act) regulates the management of the State-controlled road network and is administered by the Department of Transport and Main Roads. The Project Area crosses State-controlled roads, namely, the Bruce Highway. Under section 50 of the TI Act, construction, maintenance and operation of ancillary works and encroachments within State-controlled roads (e.g. placement of a transmission line over the road) can only be undertaken where written approval has been granted from the Department of Transport and Main Roads.

2.15 Vegetation Management Act 1999

The VM Act provides for the regulation of vegetation clearing in Queensland in a way that conserves remnant vegetation, prevents loss of biodiversity, maintains ecological processes and prevents land degradation. In achieving this purpose, the VM Act is supported by the Vegetation Management Regulation 2012 and the Planning Act. The Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development administers the Vegetation Management Act.

The proposed transmission corridor is mapped as containing native vegetation that may need to be cleared. The VM Act and its subordinate legislation provide for the categorisation of remnant vegetation through the regulated vegetation management map. Schedule 10 of the Planning Regulation provides that operational work involving the clearing of native vegetation is assessable development unless the clearing is otherwise identified as exempt clearing work or accepted development.

Under section 44 of the Planning Act, where a MID is granted, the specified work would automatically be considered accepted development. Notwithstanding this, the Project's design should consider the requirements for assessable development. Construction works will also be required to comply with management and control measures identified in the MID approval conditions.

2.16 Water Act 2000

The *Water Act 2000* (Water Act) provides for the sustainable management of water resources, water supply and demand management, the management of impacts on underground water and the operation of water authorities in Queensland. The Water Act is administered by Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development and is supported through the Water Regulation 2016, Water Plans for Queensland's water catchments and the Planning Act, which typically provides for the regulation of development activity interfering with water resources.

Schedule 10 of the Planning Regulation identifies the taking or interfering with water as assessable development requiring a development permit, unless it complies with exemption requirements established under the Exemption requirements for constructing authorities for the take of water without a water entitlement. Powerlink is a constructing authority (schedule 2 of the Acquisition of Land Act) and may take water without a permit or licence to construct or maintain infrastructure.

A riverine protection permit under the Water Act is required where development involves the excavation, placing of fill or destruction of native vegetation. The Water Act defines features that are considered to be a watercourse, whereas these features are spatially represented on the Watercourse Identification Map. Generally, under the Water Act a 'drainage feature' provides for overland flow and is not considered to be a watercourse.

Powerlink is an approved entity exempt from requiring a permit if the self-assessment guidelines under the Riverine protection permit exemption requirements are followed. A review of the Water Identification Map indicates that the proposed transmission corridor intersects with designated watercourses. As such the construction of a new transmission line and associated works may potentially require works disturbing a watercourse and will need to comply with the exemption requirements. Compliance with the exemption requirements may be achieved through the implementation of a Construction Environmental Management Plan. Where compliance cannot be met, a riverine protection permit would be required for any works within affected watercourses.

3. Local

The Study Area is divided between two local government areas (LGA), the Gladstone Region and the Banana Shire. LGAs are subject to individual local planning instruments under the Planning Act, as well as a range of local laws under the *Local Government Act 2009*. The local government planning schemes and local laws associated with the LGAs are discussed in the following sections.

3.1 Planning Schemes

The Study Area is mostly zoned as ‘Rural’ under the Gladstone Regional Council Planning Scheme 2017 (Gladstone Planning Scheme) and the Banana Shire Planning Scheme 2021 (Banana Planning Scheme). The land use intent for ‘Rural’ is similar under each planning scheme, recognising a range of land uses, including agriculture, and the need to protect the rural character/amenity of the region. Parts of Section A are within the Community Facilities Zone under the Banana Planning Scheme and parts of Section D and E are identified within the Special Purpose Zone, Environmental Management Zone, Conservation Zone and Open Space Zone under the Gladstone Planning Scheme.

The granting of a MID means the construction, operation and maintenance of a transmission line will be accepted development under the Planning Act and will not require an approval under the relevant planning schemes. Nonetheless, the MID Proposal has undertaken a detailed assessment of the Project against the relevant provisions of the Gladstone Planning Scheme and Banana Planning Scheme.

3.2 Local Laws

Local laws under the *Local Government Act 2009* (Local Government Act) are used to regulate matters specific to LGAs. Local laws imposed by the relevant LGAs will apply to the Project and may trigger permits required to be obtained for certain activities. The local laws that may apply to the Project are:

Gladstone Regional Council:

- Local Law No. 3 (Community and Environmental Management) 2011
- Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011
- Local Law No. 8 (Waste Management) 2018.

Banana Shire Council:

- Local Law No. 3 (Community and Environmental Management) 2011.