

4.0 RELEVANT LEGISLATION, LAWS & APPROVALS

Powerlink Queensland's request for land to be designated by the Minister for Natural Resources, Mines and Energy and Minister for Trade is based on S 2.6.7(1) (a) of the *Integrated Planning Act 1997* (IPA), which provides that the adequacy of the environmental assessment and public consultation about that assessment is presumed to be established if it complies with guidelines made by the Chief Executive under S 5.9.9 of IPA (the Guidelines).

The Guidelines, at section 1.4, require the assessment report to identify assessment requirements, at both State and Federal level, which apply to community infrastructure. Accordingly, this section of the report identifies:

- Relevant State and Federal legislation with implications for community infrastructure;
- Whether , and if so, the extent to which the legislation applies to the Powerlink Queensland Proposal; and
- The bases upon which the Minister can be satisfied that Powerlink Queensland has, or can and will meet its other statutory responsibilities.

4.1 COMMONWEALTH LEGISLATION

4.1.1 Environment Protection & Biodiversity Conservation Act 1999 (EPBC Act)

The Act

Under the assessment and approval provisions of the Commonwealth EPBC Act, actions that are likely to have a significant impact on a Matter of National Environmental Significance (MNES) are subject to a rigorous assessment and approval process. Such an action is described as a 'controlled action'. The seven MNES identified in the Act as triggers for the Commonwealth assessment and approval regime are:

- World Heritage properties;
- National Heritage Place;
- Ramsar Wetlands of International Importance;
- Nationally listed threatened species and ecological communities;
- Nationally listed migratory species;
- Nuclear actions; and
- Commonwealth marine areas.

Application of the Act

Consideration of the potential impacts of the proposed project on MNES have been considered. A summary is provided in **Table 4.1**. A detailed assessment of the significance of potential impacts on threatened and migratory species is provided in **Section 10**. It is considered unlikely for the Project to have a significant effect on any MNES from a local or regional perspective. In addition, mitigation measures have been recommended to minimise the potential impacts and therefore the impact of the Project on MNES is unlikely to be significant and therefore is not considered to be a 'controlled action'.

TABLE 4-1 IMPACT OF THE PROJECT ON MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE

MATTER OF NATIONAL ENVIRONMENTAL SIGNIFICANCE	IMPACT OF PROJECT
World Heritage Properties	There are no World Heritage Properties within the Project site or in the immediate surroundings.
National Heritage Places	There are no National heritage places within the Project site or in the immediate surroundings.
Wetlands of International Importance (Ramsar wetlands)	There are no listed Ramsar wetlands located within the Project site or in the immediate surroundings.
Threatened Ecological Communities	There are no threatened ecological communities within the Project site.
Listed Threatened Species	No threatened species were recorded within the Project site. Listed threatened species have been recorded within the local area. Details in Section 10 .
Migratory Species	No listed migratory species were recorded within the Project site. Listed migratory species have been recorded within the local area. Details in Section 10.3 .
Commonwealth Marine Areas	There are no Commonwealth marine areas located in the vicinity of the Project site.
Commonwealth Lands and Heritage Places	There are no Commonwealth lands or heritage places located within the Project site.
Places on the Register of the National Estate (RNE)	There are no places listed on the RNE located within the Project site.
State and Territory Reserves	There are no State forests on the Project site.
Nuclear Action	The Project does not involve any nuclear actions.

Compliance

As there are no MNES associated with the development of the substation, this project will not be referred to the Department of Environment, Water, Heritage and the Arts (DEWHA).

4.1.2 Australian Heritage Council Act 2003

The Act

Indigenous and non-indigenous cultural heritage is regulated under multiple pieces of Commonwealth legislation.

The *Australian Heritage Council Act 2003* provides for the establishment of the Register of the National Estate, which is a list of natural, Indigenous and historic heritage places throughout Australia. However, the Register was frozen on 19 February 2007, which means that no new places can be added, or removed.

On 1 January 2004, a new national heritage system was established under the EPBC Act. The National Heritage List, which is designed to recognise and protect places of outstanding heritage to the nation, and Commonwealth Heritage List, which includes Commonwealth owned or leased places of significant heritage value, are established under the EPBC Act. The listing of a place on the National Heritage List is an MNES under the EPBC Act.

Application of the Act

The Project is not affected by the *Australian Heritage Council Act 2003* or the EPBC Act (in relation to heritage) because there are no listed sites on the land to be designated.

4.1.3 Aboriginal & Torres Strait Islander Heritage Protection Act 1984

The Act

Indigenous cultural heritage is protected by Commonwealth legislation in the form of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* and the EPBC Act.

Indigenous and historic places that are of outstanding heritage value to the nation are included in the National Heritage List established under the EPBC Act. It is an offence under the EPBC Act for a person to take an action that has, will have or may have a significant impact on the Indigenous heritage values of a place listed in the National Heritage List.

The purpose of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* is to preserve and protect areas and objects that are of particular significance to Aboriginals in accordance with Aboriginal tradition. Any Aboriginal or Torres Strait Islander person or organisation may apply to the Commonwealth Minister for a temporary or permanent declaration for protection of threatened areas or objects of significance.

Application of the Act

It is theoretically possible that if an application for a declaration is made before the Minister for Natural Resources, Mines and Energy and Minister for Trade makes a decision on Powerlink Queensland's requires for designation, this Act would become relevant. Should that occur the Commonwealth Minister must liaise with the State Minister as to whether there is sufficient protection from threat of injury or desecration for the object/s or area/s under the State's law. This could result in the delay in a decision on the designation.

Compliance

Powerlink Queensland has undertaken a preliminary cultural heritage assessment of the study site to identify any potential areas of objects of significant indigenous cultural heritage and as such is satisfied that is unlikely that a declaration under this Act would be made if one was sought. To minimise the risk of any such application, and to meet its duty of care during construction, Powerlink Queensland is also to develop a Cultural Heritage Management Plan (CHMP) with the relevant Aboriginal Party for the area under the Aboriginal Cultural Heritage Act 2003 (Qld).

4.1.4 Native Title Act 1993

The Act

The *Native Title Act 1993* has the following objectives:

- a) *"To provide for the recognition and protection of native title;*
- b) *To establish ways in which future dealings affecting native title may proceed and to set standards for those dealings;*
- c) *To establish a mechanism for determining claims to native title; and*
- d) *To provide for, or permit, the validation of past acts, and intermediate period acts, invalidated because of the existence of native title".*

Section 24KA of the *Native Title Act 1993* facilitates dealings with land actually or potentially subject to native title (that is, where native title rights and interests have not been extinguished). This section applies to a land dealing that is to be carried out for the provision of facilities for services to the public which includes, inter alia, an electricity transmission facility such as the proposed substation. Dealing under s.24KA does not equate to compulsory acquisition of native title and will result in the 'non-extinguishment principle' applying. The non-extinguishment principle means that during the 'life' of the proposed substation any native title rights and interests are suppressed only to the extent of their inconsistency with the use by Powerlink Queensland of that substation. Should the line ever be decommissioned and removed, any inconsistent native title rights and interests will resurface.

Application of the Act

Lots 3 and 4 on RP176346 within the study site have a current tenure of freehold land and as such native title rights have been extinguished. The Banana Bridge Road within the study site has been registered and properly dedicated and set aside as a road, which has also extinguished native title.

4.2 STATE LEGISLATION & POLICIES

4.2.1 Aboriginal Cultural Heritage Act 2003

The Act

The protection of indigenous cultural heritage in Queensland is governed by the *Aboriginal Cultural Heritage Act 2003*. This Act requires any person who carries out an activity to take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage. This is called the Aboriginal cultural heritage duty of care. Compliance with the Aboriginal cultural heritage duty of care can be demonstrated by simply carrying out Cultural Heritage Register searches for minor disturbances to carrying out detailed cultural heritage field assessments and development of a Cultural Heritage Management Plan where there is a high risk of impact.

Application of the Act

The Act applies to the Project and requires Powerlink to comply with its Aboriginal cultural heritage duty of care when constructing, operating and maintaining the works.

Compliance

As part of the Project, a detailed cultural heritage field assessment will be undertaken by Powerlink Queensland across the study site. On the basis of that assessment and in consultation with the relevant Aboriginal Party, Powerlink Queensland will develop a Cultural Heritage Management Plan (CHMP). The CHMP may be approved under the *Aboriginal Cultural Heritage Act 2003*, or constitute an agreement with an Aboriginal Party for the purposes of that Act. Therefore, by doing so, Powerlink Queensland will comply with its Aboriginal cultural heritage duty of care.

4.2.2 Electricity Act 1994

The Act

The *Electricity Act 1994* guides the approval process for the proposed substation. The purpose of the Act is to set out the requirements for all electricity industry participants to follow to ensure a safe, efficient and reliable supply of electricity in an economical and environmentally sound manner. It does this by:

- Authorising Transmission Entities to establish “operating works” (the transmission grid and other property used for operating and managing transmission grid; and
- Requiring Transmission Entities to have regard to the environment when carrying out authorised activities (S31(b)).

Application of the Act

The Project constitutes “operating works” under the Act. The Act requires those responsible for operating works, which involve transmission of electricity to be authorised as “transmission entities”.

Compliance

The Project will comply with the Act because:

- Powerlink Queensland holds a transmission authority, and hence is a transmission entity, the proposed substation is covered by the definition of operating works;
- Industry legal advice is that the EIS is an appropriate process to satisfy the requirements of Section 31(b);
- To the extent that the proposal involves tree clearing:
 - Section 112A of the Act states that clearing of native vegetation on freehold land is classified as “exempt development if the clearing is for operating works for a transmission entity” on land designated a Minister under IPA; and
 - Section 17 of the *Electricity Regulation 2006* provides that an electricity entity may clear trees on non-freehold land if it is necessary to build, maintain or operate an electric line or works if an easement, license or other agreement is in place.

4.2.3 Electrical Safety Act 2002

The Act

This legislation is directed at eliminating the human cost to individuals, families and the community of 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; and
- Preventing property from being destroyed or damaged by electricity.

Application of the Act & Compliance

As a Transmission Entity, Powerlink Queensland's responsibilities are to implement appropriate safety management systems. It does this to the required standard.

4.2.4 Environmental Protection Act 1994

The Act

The object of this Act is to protect Queensland's environment while allowing for ecologically sustainable development. The Act contains several mechanisms to aid in the protection of the natural environment and imposes a duty of care towards the environment under S 319.

Subordinate legislation to the *Environment Protection Act 1994* includes:

- *Environment Protection Regulation 2008*, Schedule 2 of which defines a number of Environmentally Relevant Activities (ERAs) that require a license or approval; and
- *Environment Protection (Waste Management) Regulation 2000, Environmental Protection Policies for Air, Noise and Water*, which set environmental values and quality objectives for of the receiving environment.

Application of the Act

Although no approvals are currently required from the DERM under *the Environmental Protection Act 1994*, Powerlink Queensland has the following duty of care toward the environment under s.319 of this Act:

"A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm".

Also a number of the policies are relevant to the proposal.

Compliance

The Proposal complies because:

- The Project takes all reasonable and practical measures to prevent or minimise environmental harm, and so complies with the duty of care prescribed in this Act;
- It is not anticipated that an ERA will be undertaken during the construction and operation of the Project; and
- The requirements of the *Environmental Protection Act 1994* and its policies have been addressed in the EMP.

4.2.5 Integrated Planning Act 1997

The Act

The purpose of the *Integrated Planning Act 1997* (IPA) is to seek to achieve ecological sustainability of development via three main principles:

- Coordinating and integrating planning at the local, regional and State levels;
- Managing the process by which development occurs; and
- Managing the effects of development on the environment.

When considering this request for designation the Minister will be exercising “powers and functions” under IPA, and is therefore required to exercise those functions and powers “in a way that advances the Act’s purpose”.

An important component of Powerlink Queensland’s brief when considering new transmission line projects, is to ensure such projects have been considered in terms of ecological sustainability. “*Ecological sustainability*”, as defined in Section 1.3.3 of IPA:

“...is a balance that integrates:

- a) Protection of ecological processes and natural systems at local, regional, State and wider levels;*
- b) Economic development; and*
- c) Maintenance of the cultural, economic, physical and social wellbeing of people and communities”.*

Furthermore, IPA dictates that the “precautionary principle” should be considered as part of this assessment, that is, lack of full scientific certainty should not be used as a reason for postponing measures to prevent degradation of the environment if there area threats of serious or irreversible damage.

In December 2009, the IPA will be replaced by the *Sustainable Planning Act 2009* (SPA). The SPA retains the key concepts and processes of the IPA, and does not propose any significant changes to the community infrastructure designation process.

In relation to community infrastructure designation, the transitional provisions of the SPA provide that:

- A designation that is in effect under the IPA before the commencement of the SPA will continue as a designation under the SPA. The designation will be taken to have effect on the day it had effect under the IPA (s798 of the SPA);
- If immediately before the commencement of the SPA, a Minister has started the designation process, the Minister may continue the designation under the IPA as if the SPA had not commenced. The designation is then taken to be a designation under the SPA (s799 of the SPA); and
- A guideline issued by the chief executive under IPA (section 5.9.9(1)(a) and (b) (which includes the Guidelines about Environmental Assessment and Public Consultation Procedures for Designating Land for Community Infrastructure (December 2006) and therefore the Powerlink Queensland Manual) continues in effect under SPA. Therefore, the work carried out on the current proposed designation under this EIS can be considered by the Minister in deciding whether to designate the land.

Application of the Act

To ensure the Minister for Natural Resources, Mines and Energy and Minister for Trade is able to meet these IPA (and SPA) obligations when considering new transmission lines projects, Powerlink Queensland must consider each of the matters in sub-paragraph a) to c), and apply the precautionary principle approach where appropriate.

Compliance

Ecologically Sustainable Development

Australia's National Strategy for Ecologically Sustainable Development 1992 (NSEDs) defines ecologically sustainable development (ESD) as:

"using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future can be increased".

It is necessary to address the principles in understanding the relationship of the construction and operation of the electricity network in Queensland to satisfy the requirements of the NSEDs overarching goal. These principles are used in the consideration of short, long term and cumulative impacts of the Project and include the following:

- Intergenerational Equity;
- Precautionary approach; and
- Biodiversity conservation.

Together these approaches aim to prevent and reverse adverse impacts of economic and social activities on ecosystems, while continuing to allow the sustainable, equitable development of societies.

Intergenerational Equity

Intergenerational equity is a value concept that focuses on the rights of future generations. It is a concept that is implicit in ecological sustainability. Intergenerational equity is a notion that views the human community as a partnership among all generations. Each generation has the right to inherit the same diversity in natural and cultural resources enjoyed by previous generations and equitable access to the use and benefits of these resources. At the same time, the present generation is a custodian of these resources for future generations and is obliged to conserve this legacy so that future generations may also enjoy these same rights. In this way, intergenerational equity extends the scope of social justice into the future.

Intergenerational equity has little application in the instance of this Project. In this context it may be seen that Powerlink Queensland are responsible for ensuring existing resources are not diminished to the point where they may not be available to future generations. The only resource of significance that is associated with this Project is of the maintenance of freehold land acquired for the Project. The maintenance of the values of this land through the adoption and implementation of an EMP will fulfill the requirement of consideration of intergenerational equity by ensuring that further generations may continue to enjoy the environmental values of the study area.

Further, the proposal extends the sustainable and equitable development of the transmission line network to provide existing and future generations with low cost electricity with minimal impact on the environment.

Precautionary Approach

The precautionary approach was codified for the first time at the international level by the United Nations in 1992 under Principle 15 of the *Rio Declaration on Environment and Development*.

Principle 15 codified the precautionary approach, which indicates that lack of scientific certainty was no reason to postpone action to avoid potentially serious or irreversible harm to the environment. Central to Principle 15 is the element of anticipation, reflecting a requirement that effective environmental measures need to be based upon actions which take a long-term approach and which might anticipate changes on the basis of scientific knowledge.

Powerlink Queensland have adopted the precautionary approach in considering short, long-term and cumulative impacts in the design, construction, operation/maintenance and decommissioning phases of this Project. The consideration of potential impacts both now and in the future has been demonstrated in the adoption of an EMP for this Project which sets out future monitoring, reporting and mitigation actions to be followed for various elements including environmental, physical and social considerations. The adoption of the EMP (and other Powerlink Queensland environmental standards and strategies) allows for the element of anticipation and includes future actions to be taken on the basis of improved knowledge and data.

Biodiversity Conservation

Biodiversity conservation is a cornerstone of many legislative and planning instruments/strategies. Biodiversity conservation requires the considerations of not just immediate organisms and their habitat, but also the consideration of long term and cumulative impacts, and impacts that may be 'off-site' but caused by interactions occurring within the project area.

There is limited potential for the substation and relocated transmission lines to have any impacts on biodiversity conservation. The study site has been chosen on the basis of a number of attributes, including biodiversity values, which were considered in the original Site Selection Report and other previous internal planning documents for the Project.

The potential for off-site impacts on biodiversity is limited to the erosion and sedimentation of these areas that may arise should erosion and sediment controls as outlined in the EMP not be implemented or fail.

There are two options available under IPA for obtaining planning approval for the Project. These are via either the integrated development assessment system (IDAS) as set out in Chapter 3 of IPA or through the designation of land for community infrastructure in Chapter 2 Part 6 (Chapter 5 of the SPA). A comparison of these options is provided in **Section 11**. Section 2.6.5 of IPA (s203 of the SPA) makes development under a designation exempt development to the extent it is assessable against local government planning schemes.

The designation of land for community infrastructure is the preferred planning process for this Project as it is a more streamline process enabling certainty of timely commencement of the required infrastructure.

4.2.6 Sustainable Planning Act 2009

The Act

The *Sustainability Planning Bill 2009* (SPB) was enacted as the Sustainable Planning Act 2009 (SPA) on the 22 September 2009. The date upon which the SPA is to commence is yet to be proclaimed. Once the SPA comes into force it will replace the Integrated Planning Act 1997 (IPA).

The 'Purpose of the Act' for both IPA and SPA is seeking to achieve ecological sustainability. Part 2 of both IPA and the SPA contain the provisions through which the Acts seek to advance the purpose of ecological sustainability. Broadly speaking, SPA reiterates the criteria currently contained in Part 2, Section 1.2.1 of the IPA, with the inclusion that the process by which development takes place ensures the process is "...is accountable, effective and efficient and delivers sustainable outcomes;".

The criteria for advancing the Act's purpose remains consistent between both the IPA (Section 1.2.2) and SPA (Section 4(1)). Similarly, Section 5 of the SPA and Section 1.2.3 of the IPA outline what advancing the Act's purpose includes and comparatively these sections remain consistent except for the inclusion of examples such as the effects of development on climate change.

Application of the Act

Section 799 of the SPA states that where the Minister has started the process under IPA before IPA is repealed, the Minister may continue to assess the designation under IPA as if the SPA had not commenced. If the Minister does not start the designation process before IPA is repealed, SPA will apply to it. As the timing for the commencement of the SPA is unknown at the time of writing, consideration has been given whether the outcomes of the EIS would be affected by the commencement of the SPA.

Compliance

The community infrastructure designation process set out in Chapter 5 of the SPA is substantively the same as under the IPA. In particular, Section 201 & 207 of the SPA and Section 2.6.2 & 2.6.7 of the IPA respectively, are identical with the exception of section references and the inclusion of guidelines arising from the new numbering structure adopted for the SPA.

It is noted that the “Guidelines about Environmental Assessment and Public Consultation Procedures for Designation Land for Community Infrastructure” and any associated regulations have not yet been made available, so the matters which the Minister might be required to consider under those particular instruments is not yet known. However, Section 846 of the SPA provides that a guideline issued by the Chief Executive under IPA (Section 5.9.9(1)(a) and (b)), which includes the Powerlink Manual, continues in effect under the SPA. As such, the EIS prepared to support the current proposed designations, does not need to be amended prior to lodging an application with the Minister as, under the SPA, (Section 207(3)), an adequate environmental assessment and public consultation process has been undertaken in accordance with the Powerlink Manual.

Despite this, it is anticipated that the SPA Regulations are unlikely to be amended from that of the current regulations. Given the consistency of the provisions between the IPA and SPA, the conclusions provided by the EIS are therefore considered to be applicable to both the IPA and the SPA with regards to the matters the Minister must consider before designating land.

The Project's compliance with the purpose of IPA and SPA in achieving ecological sustainability has been discussed in the above section (**Section 4.2.5**). Section 5 of SPA outlines what advancing the Act's purpose includes, which is comparatively the same with IPA with the exception of the inclusion the effects of development on climate change. The EIS has contemplated matters pertaining to climate change and the potential impacts the Project may have on climate change. Particular consideration has been given to sea level rises, flooding and storm surges and Greenhouse Gas Emission (**Sections 8.3.2 and 12.1.1**). Therefore, it is a fair conclusion that the outcomes contained in the EIS will satisfy both the IPA and the SPA, with respect to pursuing the purpose of the Act – Ecological Sustainability.

4.2.7 Land Title Act 1994

The Act

The *Land Title Act 1994* provides a framework for the allocation of State land as either leasehold, freehold or other tenure. Under Chapter 4, Part 4 of the Act, a permit to occupy is required from the chief executive of the Department of Environment & Resource Management (DERM) (formerly Department of Natural Resources & Water) where the proposed alignment is developed on unallocated State land, a reserve or a road. However, Sections 101 and 102 of the *Electricity Act 1994* provide exemptions to the *Land Title Act 1994* allowing electricity entities to undertake necessary actions on road reserves and publicly controlled places such as Unallocated State Land (USL).

Application of the Act

The proposed substation site is currently owned by Powerlink Queensland and no permits are required to construct or operate the works. All existing easements within State owned land will be retained.

4.2.8 Land Protection (Pest & Stock Route Management) Act 2002

The Act

One of the dual aims of the *Land Protection (Pest & Stock Route Management) Act 2002* is to provide a framework for developing pest management plans for various land types.

Application of the Act

In accordance with the Act, Powerlink Queensland must take reasonable steps to keep land free of Class 1 and Class 2 pests as defined under the Act during the construction and maintenance of the proposed substation and relocated transmission lines.

Compliance

The EMP will need to adequately address management of such pests during construction and maintenance activities. All vegetation management activities will be carried out in accordance with Powerlink Queensland's policies and procedures for controlling weed spread and pest management.

4.2.9 Nature Conservation Act 1992

The Act

The objective of the *Nature Conservation Act 1992* (NCA) is to 'conserve nature' through conservation strategies such as dedicating and declaring protected areas for those parts of Queensland with outstanding biological diversity, natural features and wilderness values. The Act also provides for the protection of rare, vulnerable and endangered animals and plants and declared protected areas.

Application of the Act

No protected areas are known to exist in the study site and no listed species under the NCA were detected during the site investigation (**Section 10**).

The Nature Conservation (Koala) Conservation Plan 2006 and Management Program 2006- 2016 (KCP)

The Act

The KCP replaced the Interim Guideline: Koalas and Development that was released under the Regional Plan. The KCP is in accordance with Section 112 of the NCA. The KCP maps areas of Koala habitat as Koala Conservation Area, Koala Sustainability Area or Urban Koala Area. Under the KCP, the state is divided into three districts (A, B and C). Tighter development controls apply in South East Queensland, where the *South East Queensland Koala State Planning Regulatory Provisions* apply (to be replaced by a State Planning Policy at the end of 2009).

Application of the Act

Kogan is included in 'District C'. Although evidence exists that Koalas are declining within this district, the Koala is classified as 'of least concern wildlife' under the *Nature Conservation Act 1992* in areas other than the south-east Queensland bioregion as the threat to Koalas survival is generally perceived to be lower. Policies listed under the Koala Plan that relate to translocation, sequential clearing and spotter catcher requirements still need to be considered and are addressed in the EMP.

Compliance

No requirements are imposed on Powerlink Queensland in relation to koala protection for the Project, so the Project complies with the Plan and the State Regulatory Provisions.

4.2.10 Plant Protection Act 1989

The Act

The *Plant Protection Act 1989* regulates the control, removal and movement of plant pests, diseases, infestations, infections and conditions within and external to Queensland.

Application of the Act

Of specific applicability to the proposed development of the site are the movement controls for Fire Ant infected areas, which form a part of this Act and its associated regulations. Fire Ants (*Solenopsis invicta*) are a serious exotic pest which can be spread easily if movement controls are not implemented in infected areas.

Compliance

The Restricted Area Search Engine provided by the QPI&F provide maps of the restricted areas for Fire Ants. The project site does not fall within a restricted area for Fire Ants. Although no permits from the DEEDI will be required, consideration is to be given on the movement (particularly out of the site) of extracted or waste soil, retaining soil, sand, turf, plant material or mulch / green waste / fuel and the potential for these material to contain Fire Ants. These aspects are addressed in the EMP.

4.2.11 Queensland Heritage Act 1992

The Act

European cultural heritage derives State protection pursuant to the *Queensland Heritage Act 1992*. This legislation protects those areas that are considered to be of State significance and are placed on the 'Queensland Heritage Register', which is administered by the Queensland Heritage Council. For these areas, approval of the Heritage Council is required if any development is proposed. The Council will only approve destruction or substantial reduction of the significance of a registered place, if there is no feasible and prudent alternative to the development.

If there is a feasible and prudent alternative to the development, the Minister administering the Act can issue a 'Stop Order' (s.88) either stopping or prohibiting any work or activity that may destroy or reduce the cultural heritage significance of an area. This Act also protects 'archaeological areas and objects' and 'protected areas of cultural heritage significance'.

Application of the Act

The proposed Project will not interfere or develop any registered places of significance as listed on the Australian and Queensland Heritage Register (**Section 17**).

4.2.12 State Planning Policies

The Policies

A State Planning Policy (SPP) is an instrument that is made by the Minister, about matters of State interest.

Application of the Policies

The following State Planning Policies are considered to be relevant to the Project:

- SPP 1/92 "Development and the Conservation of Agricultural Land";
- SPP 1/02 "Development in the Vicinity of Certain Airports and Aviation Facilities";
- SPP 2/ 02 "Planning and Managing Development involving Acid Sulfate Soils";
- SPP 1/03 "Mitigating the Adverse Impacts of Flood, Bushfire and Landslide";
- SPP 1/07 "Housing & Residential Development"; and
- SPP 2/07 "Protection of Extractive Resources and Guidelines (and petroleum and mining leases)".

Compliance

An assessment of the relevant State Planning Policies has been undertaken in the **Section 11**, which states that the Project does not conflict with the key principles of these State Planning Policies.

4.2.13 Transport Infrastructure Act 1994

The Act

The objective of the *Transport Infrastructure Act 1994* is to allow for effective planning and efficient management of transport infrastructure. In particular, this Act deals with the management of roads of National and State importance.

Under s.33, s.50 and s.62 of the Act written approval is required:

- To interfere with a State-controlled road or its operation;
- To construct and / or maintain ancillary works and encroachments (e.g. overhead structures) on State-controlled roads; and
- For the location at which access between private land and a State-controlled road is permitted.

Application of the Act

The proposed Project will not interfere with any State or National roads (**Section 16**).

4.2.14 Vegetation Management Act 1999

The Act

The purpose of the *Vegetation Management Act 1999* (VMA) is to regulate the clearing of native vegetation in a way that, amongst other things, conserves remnant regional ecosystems, ensures the clearing does not cause land degradation and prevents loss of biodiversity.

The VMA operates in conjunction with the IPA to regulate the clearing of native vegetation. Under Schedule 8 of IPA, clearing of native vegetation is assessable development (which means a development permit for operational works for vegetation clearing) unless an exemption applies.

On 6 October 2009, the *Vegetation Management and Other Legislation Amendment Bill 2009* was introduced in Parliament. The Bill proposes amendments to the VMA. The amendments primarily relate to the regulation of clearing of high value regrowth vegetation and regrowth vegetation within 50m of identified watercourses. Once the Bill is passed, the amendments will be taken to take effect from 8 October 2009. Accordingly, the VMA will regulate clearing of both remnant vegetation and regulated regrowth vegetation. The 'specified activity' exemption under Schedule 8 of IPA is the relevant exemption for this Project. The introduction of this Bill has occurred in the final phases of the Draft EIS and is therefore not discussed in detail. Further consideration of the Bill and the implications on the Project will be provided in the Final EIS.

Application of the Act

Vegetation clearing associated with the proposed Project will be considered a 'specified activity', if it is "an activity under:

- The *Electricity Act 1994*, section 101 or 112A; or
- The *Electricity Regulation 2006*, section 14".

Section 112A of the *Electricity Act 1994* provides that carrying out clearing of native vegetation on freehold land is exempt development if the clearing is for operating works for an electricity distribution entity on land designated for the operation works by a Minister.

Section 17 of the *Electricity Regulation 2006* provides that an electricity entity may clear, lop or prune trees growing on non-freehold land if:

- It is necessary to do so to build, maintain or operate an electric line or works on the land; and
- The entity holds the benefit of an easement, license or other agreement in relation to the line or works (whether or not the easement, license or agreement authorises the clearing, lopping or pruning).

Compliance

As the preferred assessment process for the development of the proposed substation is via Ministerial designation as community infrastructure, vegetation clearing on freehold land (designated for community infrastructure) required for construction would be considered exempt development on the basis that it is a 'specified activity'.

4.2.15 Vegetation Management (Regrowth Clearing Moratorium) Act 2009

The Act

The purpose of this Act is to protect both regrowth vegetation that is an endangered regional ecosystem in rural areas across the State on freehold and leasehold land and riparian regrowth vegetation in the Burdekin, Mackay, Whitsunday and Wet Tropics catchments. This is to be achieved by mainly restricting clearing of the endangered regrowth vegetation and riparian regrowth vegetation for a period of at least 3 months, but no more than 6 months while the State consults with stakeholders about the optimum way to regulate clearing of regrowth vegetation under the VMA. The moratorium commenced on 8 April 2009 and has recently been extended to October 2009.

Application of the Act

Construction of the substation will not will involve the clearing of any endangered regrowth vegetation.

4.2.16 Water Act 2000

The Act

The *Water Act 2000* was introduced to reform water resource management in Queensland. Under s.808 of the Act, "A person must not take, supply or interfere with water under this Act unless authorised under this Act to take, supply or interfere with water". Catchment areas are also protected under the *Water Act 2000* to regulate developments within the catchment to prevent unacceptable impacts on water quality adjacent to major storages.

Under s266 of the *Water Act 2000*, a Riverine Protection Permit is required from DERM to:

- Destroy vegetation in a watercourse;
- Excavate in a watercourse; and
- Place fill in a watercourse.

The Act provides for making of guidelines by DERM by which nominated entities can carry out activities in watercourses, lakes or springs without the need for a permit under S269 of the Act, provided the guidelines are complied with. The guideline provides that where it is proposed to destroy an area of native vegetation greater than 2ha or excavate or place fill to a volume greater than 5,000m³, the Entity should notify the local office of DERM at least 5 business days before commencement of the activity.

This guideline does not remove the requirement to obtain the consent of the owner(s) of land adjoining the watercourse, lake or spring, if necessary, or provide the right of access across other land to the watercourse, lake or spring. Nor does the guideline apply to activities in a Wild River area declared under the *Wild Rivers Act 2005*; and springs in which the water is connected to artesian water, or sub-artesian water within the area covered by the Water Resource (Great Artesian Basin) Plan 2006.

In addition to the above, where waters are to be taken from a watercourse, lake or spring or underground water, for example for use in dust suppression during construction works, a permit to take water would be required pursuant to S 237 of the *Water Act 2000*. No exemptions apply to the taking of water. Construction of access track across waterway (if required) also requires approval under the Act.

Application of the Act

Powerlink Queensland is identified as an 'Entity' under the DERM 'Guideline – Activities in a watercourse, lake or spring' and as such does not require a permit under S 269 of the Act provided it meets the guidelines.

The study site is not located in an area declared as a 'catchment area' under the *Water Regulation 2002*. Therefore it is not anticipated that any for approvals will be sought under the Act.

4.3 LOCAL GOVERNMENT PLANNING SCHEMES & LOCAL LAWS

Once a community infrastructure designation has been made, the local planning scheme provisions do not apply to assessable or self assessable development under IPA or to the reconfiguration of a lot (S 2.6.5 of IPA). However consideration of the local planning scheme is required when deciding whether a designation for this purpose should be made (see Guidelines made under S 2.6.7 (1) (a) of IPA).

Under IPA, a local government must make a planning scheme which is an instrument that identifies the desired environmental outcomes for the area and outlines the measures for achieving these outcomes (including development assessment). The applicable Local Government's (Western Downs Regional Council) Planning Scheme is the *Chinchilla Shire Planning Scheme*, which was prepared under IPA and came into effect on the 30 June 2006.

A detailed review of this Planning Scheme is provided in **Section 11** of this document, which provides a planning review and assessment of the Statutory and Strategic Planning provisions of the Planning Scheme. An evaluation of the Planning Scheme provisions was also undertaken and a summary these provisions for the proposed Project within the study site are provided below in **Table 4.2**.

The Town Planning Investigation concludes that the Project is generally consistent with the provisions of the Chinchilla Shire Planning Scheme. Assessment against the Chinchilla Shire Planning Scheme provisions confirm the Project presents low impacts and has minimal conflicts with the Desired Environmental Outcomes and overall planning code outcomes, but nonetheless still triggers planning approval.

TABLE 4-2 SUMMARY OF THE CHINCHILLA SHIRE PLANNING SCHEME PROVISIONS FOR THE STUDY SITE (CONICS, 2009)

ZONING	USE DEFINITION	LEVEL OF ASSESSMENT	APPLICABLE OVERLAY & DEVELOPMENT CODES	COMPLIANCE ASSESSMENT
Rural	Public Utility	Code	Rural Zone Code	Not considered consistent with the Rural Zone. Generally consistent with the Desired Environmental Outcomes of the Chinchilla Shire Planning Scheme & the Rural Zone Code Purpose

4.3.1 Local Laws

Under the *Local Government Act 1993*, a local government may make local laws for the good rule and government of, its local government area. Community infrastructure designation under IPA does not exempt an entity from the need to comply with local laws. There are no Local Laws relevant to this Project. Therefore, approval is not required from the Western Downs Regional Council under a Local Law. A detailed review of Council's Local Laws is as follows.

The Western Downs Regional Council was formed on the 15th March 2008 and includes the former:

- Chinchilla Shire Council;
- Dalby Town Council;
- Murilla Shire Council;
- Tara Shire Council; and
- Wambo Shire Council.

All the local laws and policies of these former authorities continue to apply within the former local government areas until they are amended by the new Council. **Table 4.3** outlines the local laws that are applicable to the former Chinchilla Shire Council area in which the study site is located:

TABLE 4-3 **APPLICABLE LOCAL LAWS**

LAW NAME	LAW TYPE	LAST AMENDED DATE
03 - Libraries	Local Law	20/10/1994
03 - Libraries	Subordinate Local Law	18/02/1999
05 - Cemeteries	Subordinate Local Law	20/05/1999
05 – Removal of Buildings	Local Law	17/01/1981
07 – Parks & Reserves	Local Law	15/04/1999
07 – Parks & Reserves	Subordinate Local Law	20/05/1999
10 – Water Meters	Local Law	18/03/1999
10 – Water Meters	Subordinate Local Law	18/03/1999
11 - Roads	Local Law	20/05/1999
11 - Roads	Subordinate Local Law	20/05/1999
13 – Gates and Grids	Local Law	15/12/1999
13 – Gates and Grids	Subordinate Local Law	15/12/1999
14 – Commercial Use of Roads	Local Law	15/04/1999
14 – Commercial Use of Roads	Subordinate Local Law	15/04/1999
16 – Temporary Homes	Local Law	16/05/1996
16 – Temporary Homes	Subordinate Local Law	19/11/1998
17 – Keeping Control of Animals	Subordinate Local Law	16/05/2002
18 – Domestic Water Carriers	Local Law	15/08/1996
18 – Domestic Water Carriers	Subordinate Local Law	17/12/1998
19 – Control of Pets	Local Law	15/08/1996
19 – Control of Pets	Subordinate Local Law	19/09/1996
20 – Control of Nuisances	Local Law	18/09/1997
21 – Riding Cycles on Footways	Local Law	17/09/1998
21 – Riding Cycles on Footways	Subordinate Local Law	17/09/1998
23 – Swimming Pools	Local Laws	20/05/1999
24 – Camping Grounds	Local Law	20/05/1999
24 – Camping Grounds	Subordinate Local Law	20/05/1999
27 – Rental Accommodation with Shared Facilities	Local Law	17/06/1999
27 – Rental Accommodation with Shared Facilities	Subordinate Local Law	17/06/1999
29 – Control of Advertising	Local Law	15/04/1999
29 – Control of Advertising	Subordinate Local Law	15/04/1999
37 – Saleyards	Local Law	20/05/1999
42 – Levee Banks	Local Law	05/06/1982

An assessment of the above policies has been undertaken against the project and found that none of the above policies are applicable.

4.4 ASSESSMENT & APPROVAL PROCESS

As discussed in the Section 11 below, although the proposal can also be assessed under the requirements of the Chinchilla Planning Scheme, infrastructure projects of this magnitude are usually assessed under the provisions for designating land as Community Infrastructure by the Minister (Part 6, Division 1, IPA (Chapter 5 of the SPA)) as this process provides approval in the most efficient manner. The Ministerial Designation process is outlined in Section 11.0 along with a designation checklist.

A list of possible licenses, permits and approvals that may be required for the Project is provided in **Table 4.4** below.

TABLE 4-4 LICENCE, PERMIT & APPROVAL THAT MAY BE REQUIRED

LEGISLATION	RESPONSIBLE AUTHORITY	ACTIVITY WHICH TRIGGERS LEGISLATION	LICENCE / PERMIT / APPROVAL REQUIREMENTS
Commonwealth Legislation			
<i>Environment Protection & Biodiversity Conservation Act 1999</i>	DEWHA	If works are likely to have a significant impact upon listed Matters of National Environmental Significance (MNES) (namely in relation to nationally listed threatened and migratory species).	The proposed Project has been referred to DEWHA
<i>Native Title Act 1993</i>	Attorney-General's Department	Suppression of native title rights and interests that are inconsistent with the easement conditions. (Note that native Title has been extinguished in this instance)	Procedural requirements to be carried out on non-freehold land.
State Legislation			
<i>Electricity Act 1994</i>	QME	- Clearing exemptions; - Environmental effects of the activity (i.e. the proposed Project).	Approval required for operational works (as defined by the <i>Electricity Act 1994</i>).
<i>Integrated Planning Act 1997</i>	DIP-LG	Designation of land for Community Infrastructure.	Approval required <i>Integrated Planning Act 1997</i> .
<i>Land Act 1994</i>	DERM	Creation of easements.	Registration of easements.
<i>Nature Conservation Act 1994</i>	DERM	Clearing native vegetation and works within protected areas and affecting listed species.	Permit required for clearing native vegetation and potentially interfering with any listed species.
<i>Plant Protection Act 1989</i>	QPI&F	Movement (particularly out of the site) of extracted or waste soil, retaining soil, sand, turf, plant material or mulch / green waste / fuel.	Advice from the DPI&F is to be sought.
<i>Transport Infrastructure Act 1994</i>	DTMR	- Crossing and use of road reserves; - Possible interference with the operation of a State-controlled road; and - Development on land completely or partly in a public transport corridor.	Approval / Agreement required.
<i>Vegetation Management Act 1999</i>	DERM	Clearing of mapped remnant vegetation within substation footprint and along the re-aligned easement.	Approval not required if the 'specified activity' exemption applies.
<i>Water Act 2000</i>	DERM	Watercourse crossings & riparian clearing.	Approval to be obtained as necessary