

Introduction

Powerlink Queensland (Powerlink), as a leading provider of high-voltage electricity transmission infrastructure in Queensland, welcomes the opportunity to contribute to the Australian Law Reform Commission's (ALRC) Review of the Future Acts Regime under the *Native Title Act 1993* (Cth) (NTA). As a key stakeholder in delivering critical energy infrastructure, Powerlink supports reforms that balance procedural fairness, efficiency, and the protection of native title rights.

This submission focuses on the ALRC's proposal to replace the existing categories of future acts with an impact-based model for determining procedural requirements and the application of exclusions for public infrastructure, specifically supporting the inclusion of Powerlink's infrastructure projects within such exclusions (Questions 14 and 15).

Powerlink submits that an exclusion for public infrastructure is justified to facilitate critical energy infrastructure while ensuring procedural fairness for native title holders.

Importance of infrastructure projects

Powerlink is responsible for planning, developing, and maintaining Queensland's high voltage electricity transmission network, which underpins energy security and supports the transition to renewable energy. Projects, such as the construction of transmission lines and substations, often impact on native title rights and interests, requiring compliance with the future acts regime. These projects are critical to Powerlink meeting its obligations as the State's Transmission Network Service Provider (TNSP) to provide a safe and reliable transmission network in Queensland, which in turn supports socio-economic development, including in regional and remote communities.

Response to the proposed impact-based model (Question 14)

The ALRC's proposal to replace the existing categorisation of future acts (under Part 2, Division 3, Subdivisions G–N of the NTA) with an impact-based model would be a significant policy shift. The current future acts regime is complex and can lead to delays, uncertainty, and inconsistent outcomes for governments, proponents and native title claimants/holders. Powerlink acknowledges the ALRC's intent for regime reform to better align procedural requirements with the impacts of proposed activities, but raises the following considerations for infrastructure projects:

1. Clarity in procedural requirements

An impact-based model must provide clear criteria for assessing the severity of impacts. Without clear thresholds, there is a risk of inconsistent application, leading to uncertainty, delays and increased costs.

2. Proposed impact categorisation

- Given the scale and complexity of Powerlink's infrastructure projects, any activity that would otherwise be reliant on future act provisions will, by default, fall within the scope of a Category B – Right to Negotiate process. However, the practical implications of this classification are highly problematic for project delivery.

- The continued use of section 24KA primarily for transmission lines and occasional use of section 24MD for substations where a negotiated outcome is unable to be achieved, will facilitate timely construction and avoid delays that would otherwise arise from the extended negotiation timelines required under the new proposal.
- While the proposed shift may appear procedurally sound, it is impractical in the context of Powerlink's project timeframes. The negotiation of ILUAs under this model prior to construction commencing introduces significant uncertainty and is incompatible with the delivery schedules of major infrastructure works.
- Importantly, Powerlink is committed to engaging with Traditional Owners prior to issuing any future act notice. This ensures respectful and proactive consultation while maintaining the flexibility needed to meet construction milestones.

Retaining the future act provisions is not only more efficient—it is critical to the success of Powerlink's infrastructure program.

3. Alignment with energy and infrastructure needs

- The discussion paper highlights the need for the future acts regime to accommodate emerging industries, such as renewable energy. As Queensland's TNSP, Powerlink is obligated to facilitate the connection of new generation to the transmission network, and it requires timely approvals to ensure connection work can be completed within appropriate timeframes.
- Subject to appropriate impact categorisation, an impact-based model could facilitate this by prioritising procedural efficiency for projects with minimal or reversible impacts, while ensuring robust engagement for projects with significant impacts.

4. Resourcing and capacity for native title claimants/holders

- The discussion paper identifies resourcing constraints as a barrier to effective participation by native title claimants/holders. Powerlink agrees that under-resourced Prescribed Bodies Corporate (PBCs) can face challenges in engaging with complex infrastructure projects. An impact-based model that increases procedural requirements for high-impact projects must be accompanied by adequate funding and capacity-building for PBCs to ensure meaningful consultation.
- Powerlink support the ALRC's proposal to improve resourcing for PBCs, potentially through government funding or proponent contributions, to enable timely and effective engagement.

An impact-based model has the potential to streamline processes and enhance fairness but requires careful consideration regarding the applicable mechanism for critical infrastructure.

Response to the potential for exclusions from impact-based model (Question 15)

The proposed impact-based model could significantly affect infrastructure projects like those undertaken by Powerlink. The efficient delivery of essential energy infrastructure is critical to ensuring Powerlink 'keeps the

lights on' for Queensland. Powerlink acknowledges, however, that any exclusions must be carefully balanced to ensure transparency, accountability and community trust.

The Discussion Paper highlights challenges in the future acts regime, including resourcing constraints, procedural rights misalignment with impacts, and the need to accommodate emerging industries like renewable energy. Exclusions for certain public infrastructure projects under the NTA, such as those covered by section 24KA, would ensure streamlined processes, project delivery and costs, which is vital for meeting Queensland's energy requirements.

Section 24KA currently allows certain acts, including the construction of public works, to proceed with limited procedural requirements, provided they only temporarily interfere with native title rights. This submission supports retaining a statutory provision akin to section 24KA to ensure it applies appropriately to essential public infrastructure.

Given the public interest served by Powerlink's infrastructure, an exclusion is warranted for the following reasons:

- **Critical public benefit:** Powerlink's transmission lines are essential for delivering a reliable electricity network in Queensland and supporting new generation to connect. Excluding these projects from more onerous procedural requirements would expedite development without negating the need for consultation with native title holders.
- **Proportional impact:** While transmission lines have a physical footprint, their impact on native title rights is often limited compared to extractive industries like mining. An exclusion could ensure procedural requirements are proportionate to the impact, as suggested in the discussion paper.
- **Existing engagement practices:** Powerlink demonstrates a commitment to early and meaningful stakeholder engagement, including with landholders, traditional owners and local communities, to deliver positive outcomes.
- **Support for emerging industries:** The discussion paper identifies the need for the future acts regime to accommodate new industries, such as renewable energy. Powerlink's role in facilitating Queensland's transmission network underscores the need for a regime that supports timely delivery of critical infrastructure.

Impacts on infrastructure projects without public benefit exclusions

In cases where an exclusion for infrastructure and facilities for the public is not available, key potential impacts include:

- **Project delivery delays:** without clear guidelines and adequate resourcing, a shift to an impact-based model could increase procedural complexity and uncertainty, leading to delays in delivery of critical infrastructure. This is particularly concerning for time-sensitive renewable energy projects critical to meeting national targets.

Conclusion

To ensure exclusions for public infrastructure, including Powerlink projects, are fair and effective, please consider the following:

- **Support for public infrastructure exclusions**
Powerlink advocates for exclusions for public infrastructure projects, such as transmission lines and substations, within the proposed impact-based model. These exclusions would ensure critical infrastructure and project timelines can be maintained.
- **Concerns with impact-based categorisation**
While Powerlink supports aligning procedural requirements with project impacts, inclusion of all large-scale transmission projects will likely B Impact Based Assessment and require negotiation prior to construction commencing. This has potential to significantly delay projects. The current provisions under sections 24KA and 24MD are seen as more practical and efficient for timely delivery of projects and ensuring reliable development of the transmission network.
- **Commitment to engagement and resourcing**
Powerlink emphasises its proactive engagement with Traditional Owners and supports increased resourcing for PBCs to ensure meaningful consultation. It also highlights the importance of aligning the future acts regime with Queensland's renewable energy goals.

The future acts regime must balance the protection of native title rights with the public interest in developing critical infrastructure. An exclusion for public infrastructure projects, including those undertaken by Powerlink, would strengthen Australia's electricity network while respecting native title holders' rights through a right to consultation.

Powerlink expresses its appreciation to the ALRC for the opportunity to provide this submission, including the granted extension of time, and for the chance to contribute to the review and proposed reform of the future acts regime.