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23 December 2008



Secretariat to the Independent Review of the EPBC Act
GPO Box 787
CANBERRA ACT 2601

By Email: EPBCReview@environment.gov.au

Dear Sir or Madam,

Submission on the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999 Discussion Paper

- 1.0 This submission is made by Powerlink Queensland (**Powerlink**) in relation to the *Independent Review of the Environment Protection and Biodiversity Conservation Act 1999 – Discussion Paper (the Discussion Paper)*.
- 2.0 Powerlink's main interest is in relation to the scope of the assessment and approval processes under the *Environment Protection and Biodiversity Conservation Act 1999 (the Act)*. Therefore this submission focuses on and addresses questions raised in the following categories of the Discussion Paper:-
- a) Scope of Act; and
 - b) Assessment and Approval

3.0 Background

- 3.1 Powerlink is a government owned corporation that owns, develops, operates and maintains the high voltage electricity transmission network in Queensland, which benchmarks in the top quartile internationally in terms of both cost efficiency and reliability.
- 3.2 Powerlink's \$3.9 billion network extends 1,700km from north of Cairns to the New South Wales border - approximately half of Australia's eastern seaboard.
- 3.3 As a Transmission Network Service Provider (TNSP) in the National Electricity Market, Powerlink's primary role is to provide a secure and reliable network to transport high-voltage electricity from generators to electricity distribution networks owned by ENERGEX, Ergon Energy and Country Energy, which supply more than 1.6 million electricity customers. Powerlink also transports electricity directly to large Queensland customers such as aluminium smelters and to New South Wales via the NSW/QLD Interconnector.
- 3.4 Queensland's requirements for electricity continues to grow at more than three times the rate of all other states in the National Electricity Market as a result of strong population growth, the booming coal mining industry and increases in per-capita electricity usage. In this growth environment, Powerlink's challenge is to augment the transmission network to reliably meet growing needs in a timely, cost effective manner that meets community expectations and environmental and safety standards.

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4.0 Scope of Act

Q1 (b) Are the principles of Ecological Sustainable Development appropriate to the Commonwealth's role in environment protection and management?

- 4.1 Powerlink projects are frequently subject to environmental and planning assessment and approval processes under all levels of government: Federal, State and local government.
- 4.2 Primarily, Powerlink projects are subject to environmental impact assessment via the community infrastructure designation process under Chapter 2, Part 6 the *Integrated Planning Act 1997 (QLD) (IPA)* which is a process that seeks to achieve ecological sustainability. Ecological sustainability is defined in IPA as 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.¹
- 4.3 Therefore, Powerlink supports a Federal legislative framework for environmental impact assessment that promotes and incorporates similar principles of ecological sustainable development and considers these principles essential to the Commonwealth's role in environment protection and management. Such an approach ensures consistency between State and Federal assessment and supports the important concept of balance between environment, economic and societal concerns in the delivery of essential community infrastructure.

5.0 Assessment and Approval

Q6 Does the Act operate effectively in conjunction with State planning and environmental impact legislation?

Q7 Are there further opportunities to harmonise the Act with other State legislation, planning and approval processes?

- 5.1 In addition to the community infrastructure designation approval process, Powerlink projects are frequently subject to other assessment and approval processes under IPA as well as other State and local environmental and planning laws. Thus in addition to supporting a Federal legislative framework that is consistent with relevant State and local assessment principles, Powerlink supports a Federal framework that includes mechanisms that recognise and supports State processes.
- 5.2 Powerlink is supportive of the current mechanisms contained in Chapter 3 of the *Environment Protection and Biodiversity Conservation Act 1999 (the Act)* which empowers the Minister to enter into bilateral agreements with the States as a means of streamlining environmental regulation to minimise duplication in the environmental assessment and approval process under both Federal and State legislation.

¹ Section 1.3.3 of IPA

- 5.3 Powerlink understands that currently there is a bilateral agreement in place with Queensland that accredits the following Queensland assessment and approval processes:-
- a) the Environment Impact Statement (**EIS**) assessment process contained in Chapter 5, Part 8 of the *Integrated Planning Act 1997 (IPA)*;
 - b) the EIS assessment process that applies to 'significant projects' contained in Part 4 of the *State Development and Public Works Organisation Act 1971 (the SDPW Act)*;
 - c) the EIS assessment processes contained in Part 1, Chapter 3 of the *Environmental Protection Act 1994 (the EP Act)* that apply to 'mining activities' and an action that involves an interest in land in a protected area.
- 5.4 It is important to note that the Community Infrastructure Designation process that Powerlink follows for its projects was specifically developed by the Queensland Government as its state planning mechanism for ensuring streamlined assessment and approval of Queensland's community infrastructure projects that provide public benefit to the community such as hospitals, railway facilities and those undertaken by Powerlink. Currently, the environmental assessment and public consultation procedures for designating land for community infrastructure that Powerlink follows is not an accredited assessment and approval process under the Act. This creates some problems in relation to timely delivery of critical infrastructure.
- 5.5 Section 5.9.9 of IPA provides that the chief executive of the relevant State government department may issue guidelines about environmental assessment and public consultation procedures for designating land for community infrastructure. The chief executive has issued *Guidelines about Environmental Assessment and Public Consultation Procedures for Designating Land for Community Infrastructure (the Guidelines)* pursuant to s.5.9.9 (1)(b) of IPA.
- 5.6 Significantly, Powerlink sought to have its own specific process for environmental assessment and consultation, given the uniqueness and number of its projects compared with other community infrastructure providers. As a consequence, there is a specific manual (the Powerlink Manual) that forms part of the Guidelines and which is recognised by the State of Queensland as a process which satisfies the requirements for adequate environmental assessment and public consultation under IPA.
- 5.7 Powerlink may choose to follow assessment and approval processes under IPA or the SDPW Act that are accredited under the Queensland bilateral agreement for the purpose of obtaining approval and satisfying the designating Minister that adequate environmental assessment has occurred. However, there are key practical reasons why Powerlink does not follow these alternative processes.
- 5.8 Primarily, as a provider of linear community infrastructure, it is imperative that Powerlink apply its customised processes to ensure the timely delivery of essential community services. The processes which have been applied over a number of years also allow for appropriate consideration of impacts pertinent to transmission infrastructure projects.
- 5.9 Powerlink submits that there needs to be more flexibility in the considerations a Minister may have to accredit a State authorisation process:-
- a) for the Act to continue to operate effectively in conjunction with State planning and environmental impact legislation; and

- b) to ensure the streamlining provisions of the Act effectively achieve the objectives, of amongst other matters:-
- I. ensuring an efficient, timely and effective process for environmental assessment and approval of actions; and
 - II. operate to minimise duplication of assessment processes.
- 5.10 Powerlink understands that the Minister may accredit an authorisation process for the purposes of a bilateral agreement only if, amongst other matters, the Minister is satisfied the State or Territory process meets the 'best practice' criteria outlined in Schedule 1 of the *Environment Protection and Biodiversity Conservation Regulation 2000 (the Regulation)*.
- 5.11 Powerlink submits that under the existing streamlining provisions of the Act, State assessment and approval may not be accredited because they do not specifically align with the existing best practice criteria in the Regulation, despite the fact that these processes may be adequate in terms of meeting the objectives of the Act and providing assessment of impacts to ensure actions do not have an unacceptable or unsustainable impact on a matter protected by the Act.
- 5.12 For instance, the environmental assessment and public consultation procedures for designating land for community infrastructure that Powerlink follows aligns with the best practice criteria with one, arguably definitional, exception: the assessment report is not prepared by the State or an agency of the State. For Powerlink projects, assessment reports are prepared by competent, specialist environmental consultants and are provided to the designating Minister.
- 5.13 Wherever possible, Powerlink seeks opportunities to align its process for environmental assessment and environmental management with already accredited processes. The Terms of Reference (TOR) that are developed by Powerlink align with the generic TOR prepared by the Department of Infrastructure and Planning for the purposes of the EIS assessment process under IPA that is accredited under the Queensland bilateral agreement. Powerlink also voluntarily releases its TOR for public comment. In terms of implementation of environmental management following assessment, Powerlink's Environmental Management Plans (EMPs) are prepared to be consistent with the requirements of Queensland Environmental Protection Agency's (EPA) *Preparing Environmental Management Plans Guideline*.
- 5.14 Historically, Powerlink activities that have been referred to the Department of the Environment, Water, Heritage and the Arts (DEWHA) have most commonly been considered as being:-
- a) not a controlled action; or
 - b) not a controlled action, provided Powerlink complies with certain conditions; or
 - c) a controlled action, with assessment on information provided in the referral, or on preliminary documentation.
- 5.15 In Powerlink's experience, its approach to assessment has been considered sufficient to meet the objectives of the Act and provide adequate assessment of impacts to ensure actions do not have an unacceptable or unsustainable impact on a matter protected by the Act. Powerlink generally provides its final assessment report as part of the referral.
- 5.16 In addition, Powerlink undertakes rigorous monitoring programs against its EMP conditions. DEWHA carried out an audit in relation to Powerlink's Tully to Innisfail

transmission line project which confirmed compliance with EMP conditions. As outlined above, Powerlink's EMPs align with the Queensland EPA's guidelines for EMPs.

- 5.17 Therefore, Powerlink submits that, to ensure the streamlining provisions better achieve their objectives, consideration should be given to:-
- a) carrying out a review of the current best practice criteria with a view to allowing *greater flexibility in the methods of assessment and approval under State legislation that may be accredited*; or
 - b) providing the Minister with discretionary powers to accredit State assessment processes that generally meet the best practice criteria prescribed, other than the criterion that the assessment must be performed by the State or an agency of the State, in so far as they adequately meet the objectives of the Act by an alternative method of assessment and approval.
- 5.18 Powerlink is willing to meet with Dr Hawke or DEWHA to elaborate on its response, and to participate constructively in any further consultation on the matter.
- 5.19 Please do not hesitate to contact me on 07 3860 2709 should you have any questions regarding Powerlink's response or wish to discuss further.

Yours sincerely,



Geoff Bostrom
MANAGER LEGAL AND COMMERCIAL

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