

CHAPTER

03

Project Approvals

INLAND
RAIL 

CALVERT TO KAGARU ENVIRONMENTAL IMPACT STATEMENT

**ARTC**

The Australian Government is delivering
Inland Rail through the Australian
Rail Track Corporation (ARTC), in
partnership with the private sector.

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3. Project approvals

3.1 Introduction

This chapter summarises the Commonwealth, State, and local legislation relevant to the Project and identifies the approvals, permits, licences and authorities necessary for the planning, construction, and operational phases of the Calvert to Kagaru Project (the Project).

Table 3.4 lists the potential post-Environmental Impact Statement (EIS) approvals, permits, licences and authorities, detailing the relevant legislative triggers, administering authorities¹ and whether any exemptions or self-assessable codes/requirements are available to the Project and ARTC.

3.1.1 Purpose of this chapter

On 16 June 2017, the Project was declared to be a 'coordinated project for which an EIS is required' by the Coordinator-General under Section 26 of the *State Development and Public Works Organisation Act 1971* (Qld) (SDPWO Act). This declaration initiated the statutory environmental impact assessment procedure of Part 4 of the SDPWO Act, which requires the proponent to prepare an EIS for the Project.

On 21 June 2017, the then Australian Government Minister for the Environment determined the Inland Rail—Calvert to Kagaru Project to be a 'controlled action' under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) due to the likely potential impacts on Matters of National Environmental Significance (MNES). Assessment of the Project was determined to be under the Bilateral Agreement between the Commonwealth (now the Department of Agriculture, Water and the Environment (DAWE)) and the State of Queensland (QLD). The relevant controlling provision for the Project is listed threatened species and communities (Sections 18 and 18A) (reference number EPBC 2017/7944).

The final Terms of Reference (ToR) for the Project was approved by the Coordinator-General under Section 30 of the SDPWO Act and was released on 8 December 2017. The ToR sets out the matters a proponent must address in an EIS for the Project under the SDPWO Act. Further, as the Project will be assessed under the Bilateral Agreement between the Commonwealth and the State of QLD, the ToR also sets out the requirements for the assessment of the EPBC Act controlling provision, mitigation measures and any offsets for residual impacts.

As part of this EIS process, ARTC are not requesting approval from relevant State agencies for any works that would be subject to secondary approvals such as environmentally relevant activities, waterway barrier works, etc. These approvals will be sought during detailed design.

3.1.2 Terms of Reference

This chapter addresses the ToR relating to Project approvals as summarised in Table 3.1.

TABLE 3.1: TERMS OF REFERENCE COMPLIANCE TABLE—PROJECT APPROVALS

Terms of Reference requirement	Where addressed
6.8 Assess the extent to which the construction and operation of the project meets all statutory and regulatory requirements of the State and that the intended outcomes are consistent with current state policies and guidelines. If there is conflict, provide comment on the planning merit that supports the project.	Approvals are consolidated in Chapter 3: Project Approvals
7.1 The proponent must identify in the EIS the scope of government approvals sought through the EIS process.	Chapter 3: Project Approvals

1. Department and Minister titles current at the time of writing.

Terms of Reference requirement	Where addressed
<p>7.2 The assessment and supporting information should be sufficient for the Coordinator-General and administering authority to decide whether an approval sought through the EIS process should be granted. Where applicable, sufficient information should be included to enable approval conditions to be developed in relation to later approvals under relevant State and Commonwealth legislation, including but not limited to the <i>Planning Act 2016</i> (PA), the <i>Water Act 2000</i> (Water Act), <i>Nature Conservation Act 1992</i> (NC Act), <i>Vegetation Management Act 1999</i> (VMA), <i>Fisheries Act 1994</i> (Fisheries Act), <i>Land Act 1994</i>, <i>Forestry Act 1959</i>, <i>Biosecurity Act 2014</i> (Biosecurity Act), <i>Queensland Heritage Act 1992</i>, <i>Transport Infrastructure Act 1994</i>, <i>Mineral Resources Act 1989</i>, EP Act, <i>Regional Planning Interests Act 2014</i>, <i>Environmental Offsets Act 2014</i> (EO Act) and EPBC Act.</p>	<p>Chapter 3: Project Approvals The assessment and supporting information is considered sufficient for the Coordinator-General and administering authority to decide whether approvals sought through the EIS process should be granted</p>
<p>9.3 Provide an outline of the environmental impact assessment process, including the role of the EIS in the Coordinator-General's decision-making process. The information in this Section is required to ensure readers are informed of the process to be followed and are aware of any opportunities for input and participation.</p>	<p>Section 3.2.1 and Figure 3.2 Chapter 1: Introduction, Section 1.4</p>
<p>9.4 Inform the reader how and when properly made public submissions on the EIS will be addressed and taken into account in the decision-making process.</p>	<p>Section 3.2.1 and Figure 3.2 Chapter 1: Introduction, Section 1.7</p>
<p>9.5 Describe the approvals required to enable the project to be constructed and operated. Explain how the environmental impact assessment process (and the EIS itself) informs the issue of the leases/licences/permits required by the proponent before construction can commence. Provide a flow chart indicating the key approvals and opportunities for public comment.</p>	<p>Chapter 3: Project Approvals Figure 3.2 provides a flowchart indicating key approvals and opportunities for public comment</p>
<p>9.6 Inform the reader of how the SDPWO Act, EP Act and the PA interact, with reference to the project. Describe how the EIS process informs approvals required for the project, and how a properly made submission on the EIS relates to application processes and later approvals under the PA and EP Act respectively.</p>	<p>Sections 3.2.1.1, 3.2.1.2 and 3.2.1.3</p>
<p>9.7 Identify any statutory approvals, permits, licences and authorities (including requirement for owner's consent) that will be required for the project to use land.</p>	<p>Sections 3.3.4, 3.4.2 and 3.4.16</p>
<p>9.8 Describe the assessment process under the Bilateral Agreement between the Commonwealth and the State of Queensland under Section 45 of the EPBC Act relating to environmental assessment.</p>	<p>Sections 3.2.1, 3.2.2, 3.2.3 and Figure 3.2 Chapter 1: Introduction, Section 1.4</p>
<p>9.9 The State Development Assessment Provisions (SDAP) prescribed in the Planning Regulation 2017 set out the matters of interest to the State for development assessment where the chief executive of the PA is the assessment manager or referral agency for development applications. If the proponent intends to satisfy the information requirements of future development assessment decisions under SDAP for any component of the project during this coordinated project EIS process, the material provided in accordance with Sections 10-11 of this TOR should be sufficient to permit those assessments to be completed for that project component.</p>	<p>Sections 3.2 and 3.4.2.1</p>

Terms of Reference requirement	Where addressed
9.10 The EIS will provide, where relevant, the information required under Section 125 of the EP Act in support of the project's environmental authority application for Environmentally Relevant Activities (ERAs). Any ERAs to be conducted as part of the project should be listed separately with appropriate ERA number, activity name and required threshold (see EP Regulation, Schedule 2 for a detailed list of ERAs). The assessment and supporting information should be sufficient for the administering authority to decide whether an approval should be granted. Environmental values and detailed approval requirements are specified in the EP Act, the EP Regulation, environmental protection policies and relevant guidelines.	Sections 3.2, 3.4.1.1 and 3.6
10.9 Describe the planning schemes, regional plans, state policies and government priorities for the preferred alignment, including those that have been publicly notified. This description should include those instruments currently under development and likely to be implemented within planning and construction timeframes.	Section 3.5 Chapter 8: Land Use and Tenure, Sections 8.3, 8.5.3.1 and 8.8
10.10 Describe the following information about the proposed project: (j) Any activity that is a prescribed ERA	Section 3.4.11.2 and Table 3.4

3.2 Key Project legislative requirements and approvals

A principal purpose of this EIS is to provide sufficient information to enable the QLD Coordinator-General and Australian Government Minister for the Environment to evaluate and assess the Project under the SDPWO Act and EPBC Act respectively, and for recommendations to be made regarding approvals required by the Project under other legislation. The approvals that are being sought as part of the EIS process are listed in Table 3.2.

As part of this EIS process, ARTC are not requesting approval from relevant State agencies for any works that would be subject to secondary approvals such as environmentally relevant activities, waterway barrier works, etc. These approvals will be sought separately during detailed design.

TABLE 3.2: KEY APPROVALS SOUGHT THROUGH THE ENVIRONMENTAL IMPACT STATEMENT

Legislation	Approval
SDPWO Act	Coordinator-General's EIS evaluation report
EPBC Act	Approval for the undertaking of a controlled action for the purposes of the relevant controlling provision (listed threatened species and communities) under Section 18 and 18A of the EPBC Act

The Project will trigger the requirement to obtain a number of approvals, permits and authorities under State legislation. On the basis that the Project is given EIS approval, the Project will seek to obtain these approvals after completion of the EIS process, once detailed design has been sufficiently progressed. Permits and approvals that are expected to be required and will be obtained post-EIS are outlined in Section 3.6.

3.2.1 State Development and Public Works Organisation Act 1971

3.2.1.1 Overview

The SDPWO Act provides for State development and planning through the provision of a system to coordinate and regulate public works, manage major land and infrastructure assets and coordinate the assessment of major project proposals, including environmental, social and economic impacts. In doing so, the SDPWO Act seeks to facilitate timely, coordinated and environmentally responsible land use and infrastructure planning to support QLD's development.

A key provision of the SDPWO Act is the function of the Coordinator-General appointed as a corporation sole, to represent the Crown. The Coordinator-General holds powers to:

- ▶ Manage the assessment of major infrastructure projects
- ▶ Declare a project to be a 'coordinated project' and coordinate a whole-of-government environmental impact assessment process for the project
- ▶ Declare a project to be a 'prescribed project'
- ▶ Declare a project to be a 'critical infrastructure project'
- ▶ Access land, and compulsorily acquire land
- ▶ Declare and manage State Development Areas across the State.

3.2.1.2 Relationship with the Planning Act 2016

Where proposed development has been the subject of an EIS under the SDPWO Act, certain aspects of the development assessment process under the Planning Act are modified.

A development application that includes a material change of use of premises:

- ▶ Is not required to undergo public notification under the Planning Act
- ▶ There are no referral agencies under the Planning Act for the application, as the Coordinator-General's report for the EIS is taken to be a referral agency's response under the Planning Act
- ▶ For an impact assessable development application, a properly made submission about a draft EIS or any additional information required by the Coordinator-General that was publicly notified, is taken to be a properly made submission about the application under the Planning Act.

Further explanation of the SDPWO Act's interaction with the Planning Act is shown in Figure 3.1.

3.2.1.3 Relationship with the Environmental Protection Act 1994

Chapter 3 of the EP Act includes provisions for an EIS process that applies only to projects other than coordinated projects that are mining and resource activities. Mining and resource activities that trigger an EIS under the EP Act require a project-specific terms of reference.

The EP Act, together with the Planning Act, provides a licensing regime for Environmentally Relevant Activities (ERAs). Details on the requirements for ERAs are in Section 3.4.11.

The SDPWO Act's interaction with the EP Act is shown in Figure 3.1.

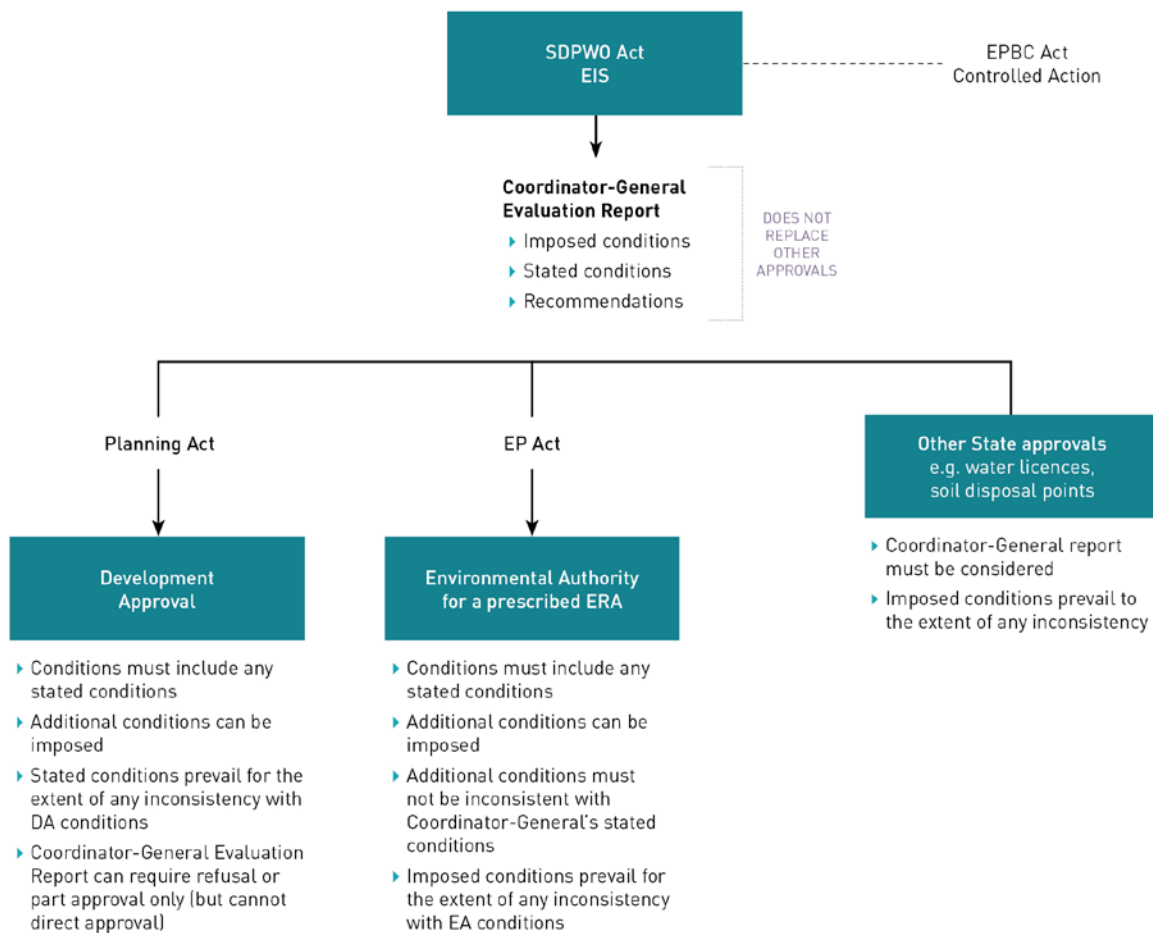


FIGURE 3.1: RELATIONSHIP BETWEEN THE SDPWO ACT, PLANNING ACT AND EP ACT, INCLUDING OTHER STATE APPROVALS

3.2.1.4 Relevance to Project

In accordance with Section 26 of the SDPWO Act, the Coordinator-General may declare a project to be a 'coordinated project' for which an EIS is required or declare a project to be a 'coordinated project' for which an Impact Assessment Report (IAR) is required. Declaration of a project as a 'coordinated project' is based on one or more of the following criteria applying:

- ▶ Complex approval requirements involving local, state and federal governments
- ▶ Significant environmental effects
- ▶ Strategic significance to the locality, region or State, including for the infrastructure, economic and social benefits, capital investment or employment opportunities it may provide
- ▶ Significant infrastructure requirements.

An EIS provides the Coordinator-General with a framework to:

- ▶ Consider the environmental, social and economic aspects of the Project in the context of legislative and policy provisions and decide whether the Project can proceed
- ▶ State, recommend or impose conditions for approval, as appropriate
- ▶ Ensure appropriate environmental management and monitoring programs to avoid, minimise, mitigate or offset any adverse impacts.

This EIS has been prepared to address the ToR issued by the Office of the Coordinator-General on 8 December 2017. The following steps in the coordinated project process remain to be completed:

- ▶ The EIS (as a draft EIS) is made available for public comment and submissions may be made by any person to the Coordinator-General during the submission period.
- ▶ The Coordinator-General considers the draft EIS, all properly made submissions, and any other material that the Coordinator-General considers relevant to the Project. The Coordinator-General must then decide whether or not to accept the draft EIS as the final EIS under Section 34A of the SDPWO Act and issue a notice advising of the decision.
- ▶ Where the Coordinator-General decides not to accept the draft EIS as the final EIS, the Coordinator-General must request additional information and advise whether or not public notification of the additional information is required under Section 34B(2) of the SDPWO Act.
- ▶ Where the Coordinator-General requests further information under Section 34B(2) of the SDPWO Act, a revised draft EIS is provided and public notification undertaken, where required.
- ▶ Once the Coordinator-General accepts the draft EIS as the final EIS, the Coordinator-General will evaluate the EIS, any submissions on the EIS, any other relevant information and prepare a report that evaluates the EIS.
- ▶ Following preparation of the Coordinator-General’s report, the report is provided to the Australian Government Minister for the Environment for assessment under the EPBC Act through the Bilateral Agreement between the Commonwealth and the State of QLD.

The SDPWO Act EIS process was accredited under the Bilateral Agreement for the assessment of the Project under Section 45 of the EPBC Act, discussed in Section 3.2.2. The process for environmental impact assessment and consultation under the SDPWO Act is shown in Figure 3.2. Included in this figure is the identification of the stages in the EIS approval process where the EIS is publicly notified and where there is the opportunity for public comment.

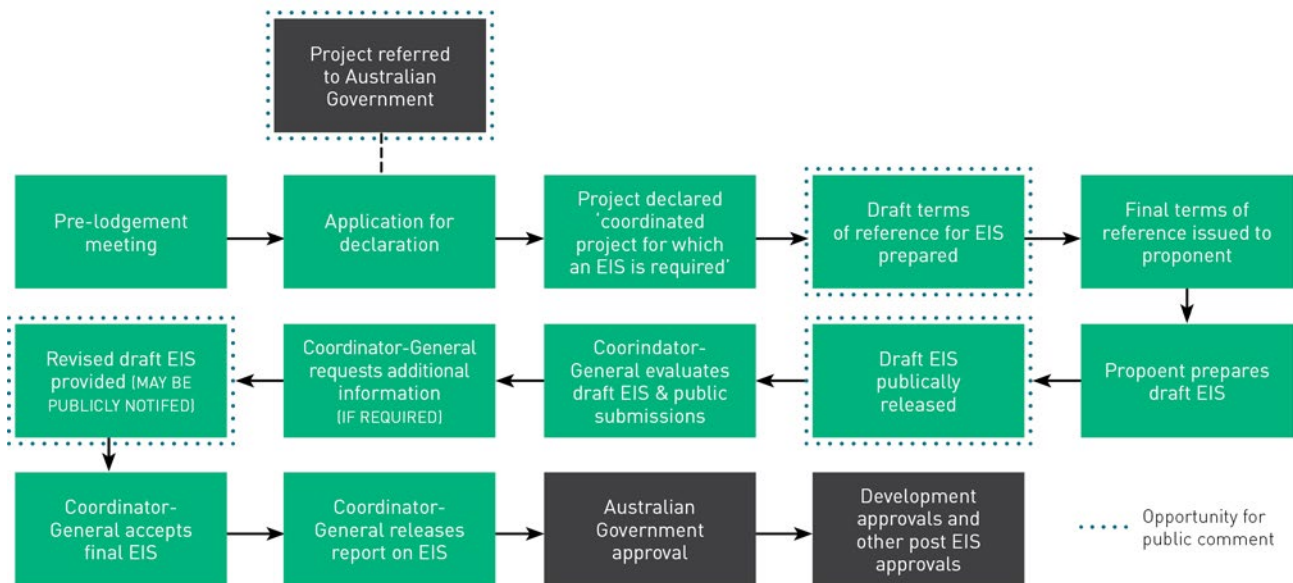


FIGURE 3.2: THE ENVIRONMENTAL IMPACT ASSESSMENT AND CONSULTATION PROCESS UNDER THE SDPWO ACT AND THE EPBC ACT

Under the SDPWO Act, the Coordinator-General's report may include:

- ▶ An evaluation of the environmental effects of the Project and any other related matters
- ▶ Imposed conditions for undertaking the Project
- ▶ Stated conditions that must be imposed on subsequent development approvals
- ▶ Recommendations for other approvals required by the Project.

The conditions of approval in the Coordinator-General's report on the EIS only gain legal effect when attached to a development approval given by an assessment manager under other specific legislation. The Project proponent is still required to obtain all other development approvals from local authorities (e.g. for a material change of use (MCU)) and QLD Government departments (e.g. an environmental authority (EA) under the *Environmental Protection Act 1994* (Qld) (EP Act)), where applicable.

Assessment managers ultimately decide whether development approvals are granted for the Project. These assessment managers:

- ▶ Must attach the Coordinator-General's conditions to any development approval that is granted
- ▶ Are not limited in their ability to refuse a project, even if the Coordinator-General's report on the EIS has recommended the project be approved
- ▶ Can impose additional conditions on the development approval, provided they are not inconsistent with the conditions stated in the Coordinator-General's report.

3.2.1.5 State Development Areas

State Development Areas (SDAs) are declared under Section 77 of the SDPWO Act. SDAs are clearly identified areas of the State that are declared by regulation when the Governor in Council is satisfied that the public interest or general welfare of persons resident in any part of the State requires it.

The Coordinator-General is responsible for the planning and ongoing management of SDAs throughout QLD. In an SDA, the Coordinator-General:

- ▶ Prepares and implements the development scheme for each SDA, which regulates development within the SDA
- ▶ Assesses and decides SDA applications and requests under the SDPWO Act and the development scheme
- ▶ Has specific compulsory land acquisition powers for land situated in an SDA.

The Project traverses land within the Rural Precinct of the Bromelton SDA at Kagaru, within the Southern Freight Rail Corridor (SFRC). Land within the Bromelton SDA is subject to the provisions of the Bromelton SDA Development Scheme. The Bromelton SDA Development Scheme outlines that the preferred intent for land within the Rural Precinct is to primarily provide for low-impact rural and agricultural activities but also that development within the Rural Precinct is not to compromise the future development of the SFRC (i.e. the Project).

The Project is consistent with the intent of the Bromelton SDA. Construction and operation of the Project will likely support associated future industries within the Bromelton SDA. Furthermore, the Project has been located and designed with consideration to minimise adverse impacts on existing and future intended land uses.

Further information on the Bromelton SDA is provided in Chapter 8: Land Use and Tenure.

3.2.2 Environment Protection and Biodiversity Conservation Act 1999

3.2.2.1 Overview

The EPBC Act provides that any action (i.e. a project, development, undertaking, activity or series of activities) that has, will have or is likely to have a significant impact on an MNES, or other matters protected under the EPBC Act such as the environment of Commonwealth land, requires approval from the Australian Government Minister for the Environment.

The EPBC Act, which is administered by the Australian Government's DAWE identifies the following triggers for potential Australian Government assessment and approval:

- ▶ World Heritage properties
- ▶ National Heritage places
- ▶ Wetlands of international importance (Ramsar wetlands)
- ▶ Listed threatened species and ecological communities
- ▶ Listed migratory species
- ▶ Commonwealth marine areas
- ▶ Great Barrier Reef Marine Park
- ▶ Nuclear actions (including uranium mines)
- ▶ Water resources, in relation to coal seam gas development and large coal mining development
- ▶ The environment, where actions proposed are on, or will affect Commonwealth land and the environment
- ▶ The environment, where Australian Government agencies are proposing to take an action.

If a project is likely to impact on any MNES, a referral under the EPBC Act must be made to the Minister. Subsequent to the receipt of a referral, the Minister will determine whether or not the proposed action is a 'controlled action'. If the action is considered a 'controlled action', then an environmental assessment must be submitted to the Minister for approval.

The environmental assessment can proceed through a Bilateral Agreement that accredits a state or territory assessment process (i.e. EIS process under the EPBC Act), a ministerial declaration that accredits another Australian Government agency or through assessment determined by the Minister.

3.2.3 Controlled Action environmental impact assessment under the Bilateral Agreement

This draft EIS has been prepared to address the ToR issued by the Office of the Coordinator-General on 8 December 2017, which includes assessment of the controlling provision, mitigation measures and any offsets for residual impacts that fully address the matters relevant to the EPBC Act controlling provision for the Project (listed threatened species and communities) as set out in Section 11 of the ToR and addressed in Appendix K: Matters of National Environmental Significance Technical Report.

At the conclusion of the SDPWO Act EIS process, the Australian Government Minister for the Environment will receive a copy of the Coordinator-General's Evaluation Report and will take the Coordinator-General's Evaluation Report into account when making a decision under the EPBC Act. The Australian Government Minister for the Environment will make a decision on whether to approve the Project, and if it is approved, with or without conditions.

3.3 Commonwealth legislation

3.3.1 Aboriginal and Torres Strait Islander Heritage Protection Act 1984

3.3.1.1 Overview

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) (ATSIHP Act) enables the Australian Government to intervene and, where necessary, preserve and protect areas and objects of particular significance to Aboriginal persons or group of persons from being desecrated or injured.

The ATSIHP Act allows the Australian Government Minister for the Environment, on the application of an Aboriginal person or group of persons, to make a declaration to protect an area, object or class of objects from threat of injury or desecration.

The ATSIHP Act was intended as a last resort in cases when state or territory laws do not provide effective provision for the protection of significant Aboriginal areas and objects. The Commonwealth would ordinarily only seek to exercise its power after the relevant Indigenous party has exhausted all opportunities to preserve and protect the area or object through the relevant state or territory legislation.

The ATSIHP Act does not apply to all Aboriginal heritage, but only to areas and objects that are of particular significance to Aboriginal people in accordance with Aboriginal tradition, and to Aboriginal remains.

3.3.1.2 Relevance to the Project

There are currently no areas or objects within the cultural heritage study area for the Project that are protected by the ATSIHP Act.

3.3.1.3 Project compliance

Cultural Heritage Management Plans (CHMPs) for the Project were developed between ARTC and the relevant Aboriginal Parties in 2018 (CHLH17009). These CHMPs have been approved under the *Aboriginal Cultural Heritage Act 2003* (Qld) (ACH Act) and consequently meet all the requirements for the identification, assessment and management of Aboriginal heritage under the Project's ToR. Areas and objects of particular significance to an Aboriginal person or group of persons will be managed through the approved CHMPs.

Chapter 18: Cultural Heritage provides a further discussion on Aboriginal cultural heritage values within the disturbance footprint.

3.3.2 National Environment Protection Measures (Implementation) Act 1998

3.3.2.1 Overview

The *National Environment Protection Measures (Implementation Act) 1998* (Cth) (NEPM Act) and complementary state and territory legislation allow the National Environment Protection Council to make National Environment Protection Measures (NEPMs). NEPMs are a special set of national objectives designed to assist in protecting or managing particular aspects of the environment.

3.3.2.2 Relevance to the Project

The NEPMs that are related to the Project are:

- ▶ National Environment Protection (Used Packaging Materials) Measure
- ▶ National Environment Protection (National Pollutant Inventory) Measure
- ▶ National Environment Protection (Movement of Controlled Waste between States and Territories) Measure
- ▶ National Environment Protection (Ambient Air Quality) Measure
- ▶ National Environment Protection (Assessment of Site Contamination) Measure.

3.3.2.3 Project compliance

The assessments contained within this EIS have, where relevant, been undertaken in line with achieving the NEPM objectives and desired environmental outcomes, which aim to:

- ▶ Reduce environmental degradation arising from the disposal of used packaging and conserve virgin materials through the encouragement of re-use and recycling of used packaging materials
- ▶ Minimise the potential for adverse impacts associated with the movement of controlled waste on the environment and human health
- ▶ Provide ambient air quality allowing for the adequate protection of human health and wellbeing
- ▶ Collect a broad base of information on emissions and transfers of substances on the reporting list
- ▶ Provide adequate protection of human health and the environment, where site contamination has occurred, through the development of an efficient and effective national approach to the assessment of site contamination.

3.3.3 National Greenhouse and Energy Reporting Act 2007

3.3.3.1 Overview

The *National Greenhouse and Energy Reporting Act 2007* (Cth) (NGER Act) was established as a single national framework for reporting and disseminating company information about greenhouse gas emissions, energy production and energy consumption. The Regulations under the NGER Act and the National Greenhouse and Energy Reporting (Measurement) Determination 2008 establish the legislative framework for a National Greenhouse and Energy Reporting Scheme.

Under the NGER Act (Part 2, Division 1A, Section 13), corporations that meet certain thresholds must report to the Clean Energy Regulator their emissions, energy production and energy consumption each financial year. There are two types of thresholds that determine which companies have an obligation under the NGER Act:

- ▶ Facility thresholds
- ▶ Corporate group thresholds.

The current facility threshold is:

- ▶ 25 kilotonnes (kt) or more of greenhouse gases (CO₂e) (scope 1 and scope 2 emissions)
- ▶ Production of 100 terajoules (TJ) or more of energy, or
- ▶ Consumption of 100 TJ or more of energy.

The current corporate thresholds are:

- ▶ 50 kt or more of greenhouse gases (CO₂e) (scope 1 and scope 2 emissions)
- ▶ Production of 200 TJ or more of energy, or
- ▶ Consumption of 200 TJ or more of energy.

The potential emission sources to be reported for the Project include:

- ▶ Combustion of fuels for energy
- ▶ Industrial processes (such as producing cement and steel)
- ▶ Waste management.

3.3.3.2 Relevance to the Project

Under the requirements of the NGER Act, ARTC will need to incorporate the emissions, energy production and energy consumption from activities associated with the Project into its annual reporting if it triggers the corporate group threshold. ARTC did not have to report greenhouse gas and energy data to the Clean Energy Regulator for the last reporting period, 2017–2018, as it did not trigger the reporting threshold.

3.3.3.3 Project compliance

Annual greenhouse gas and energy data for the Project, along with the wider Inland Rail Program, will be captured for construction and operational phases. This data will be used to inform ARTC's annual National Greenhouse and Energy Reporting obligations.

3.3.4 Native Title Act 1993

3.3.4.1 Overview

The *Native Title Act 1993* (Cth) (NT Act) establishes a framework for the protection and recognition of native title, including by conferring on Indigenous people who hold (or claim to hold) native title rights and interests in respect of any land or waters the right to be consulted on, and in some cases to participate in, decisions about activities proposed to be undertaken on the land (or in the waters). The NT Act provides for the validation of past Commonwealth acts that would have been invalid because of native title and enables each of the state and territories to make similar provision in their own laws. The NT Act also establishes the process involved in having native title recognised and the roles and responsibilities of the different bodies involved in this process.

The NT Act provides the Commonwealth with a process to:

- ▶ Recognise and protect the rights and interests of Indigenous peoples through native title claims and determinations
- ▶ Manage the impact that proposed actions may have on native title through the 'future acts' system and associated agreements
- ▶ Extinguish native title over specified areas (including particular freehold estates, leasehold land, or public works activities or infrastructure).

The NT Act adopts the common law definition of 'native title' and establishes the National Native Title Tribunal (NNTT), which has a number of functions in relation to the regulation of native title in Australia including in relation to native title applications, inquiries and determinations.

While native title has been extinguished under the NT Act over validly granted freehold land, native title interests and rights may still exist over a number of other tenures. These tenures include reserves, State forest and national parks, land that is, or has been, subject to pastoral leases or other types of leases, waters that are not privately owned, as well as Unallocated State Land (USL). The NT Act contains a statutory process to allow parties to reach agreement about the use of land and waters where native title may continue to exist, and for state and territory governments to grant interests over that land to both native title claimants and non-native title parties.

Under sections 24JA and 24JB of the NT Act, if an act such as the grant of a statutory approval or of land tenure, is to be undertaken in relation to land subject to native title that was dedicated as a reserve before 23 December 1996, the act will be valid from a native title perspective provided it fits within the purpose of the reserve (or would have no greater impact on native title than acts that fit within the purpose of the reserve).

Further, if the act consists of the construction or establishment of a public work, which includes a road, railway or bridge that is constructed or established by or on behalf of the Crown, or a local government body or other statutory authority of the Crown, in any of its capacities, the act will extinguish native title in relation to the area on which the public work is situated. In such cases, the Australian Government Minister would need to notify all affected representative bodies and registered native title claimants of the work and give them an opportunity to comment.

The *Native Title (Queensland) Act 1993* is discussed in Section 3.4.18.

3.3.4.2 Relevance to the Project

Tenure within the EIS investigation corridor is predominately freehold where native title rights and interests have been extinguished.

There are two current native title claims that have been accepted for registration over the disturbance footprint, which are yet to be determined:

- ▶ The Yuggera Ugarapul People claim area covers the entire permanent disturbance footprint
- ▶ The Danggan Balun (Five Rivers) People claim area is partially located within the EIS investigation corridor at Kagaru and does not traverse the permanent disturbance footprint.

3.3.4.3 Project compliance

Where it is determined native title has not been extinguished within the disturbance footprint, ARTC will seek the extinguishment of native title rights and interests in question prior to construction of the Project, to enable the grant of the necessary interests in Crown lands required to construct the Project.

Details on native title claims are further discussed in Chapter 8: Land Use and Tenure.

3.4 Other State legislation

3.4.1 Aboriginal Cultural Heritage Act 2003

3.4.1.1 Overview

The purpose of the ACH Act is to provide effective recognition, protection and conservation of Aboriginal cultural heritage (defined as objects and areas in QLD that are of particular significance to Aboriginal people because of Aboriginal tradition or history, or archaeologically or historically significant evidence of Aboriginal occupation of an area of QLD).

The ACH Act protects Aboriginal cultural heritage primarily by prescribing a 'cultural heritage duty of care' that requires all persons to take all reasonable and practical measures to avoid harming cultural heritage. Failure to comply with the cultural heritage duty of care is an offence. Additional offences prescribed by the ACH Act include unlawfully harming, excavating, relocating, taking away and possessing Aboriginal cultural heritage.

Relevantly, a person who carries out an activity will be taken to have complied with the cultural heritage duty of care in relation to Aboriginal cultural heritage (and will not commit any of the other offences prescribed by the ACH Act) if the person is acting under an approved CHMP that applies to the cultural heritage. The preparation of an approved CHMP is mandatory for projects that require an EIS.

3.4.1.2 Relevance to the Project

CHMPs (CLH017009) for the Project were developed between ARTC and the relevant Aboriginal Parties in 2017 and 2018. These CHMPs have been approved under the ACH Act.

Searches of the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) search indicates there are 45 reported Aboriginal cultural heritage sites within proximity to the Project (refer Table 3.3). The majority of these sites consist of stone artefacts—either isolated finds or clustered in scatters—followed by landscape features, resource areas and grinding grooves.

TABLE 3.3: DEPARTMENT OF ABORIGINAL AND TORRES STRAIT ISLANDER PARTNERSHIPS DATABASE AND REGISTER SITES

Site type	Count	Per cent of the total
Artefact scatter	31	68.89%
Isolated find	6	13.33%
Landscape feature	5	11.11%
Resource area	2	4.44%
Grinding groove(s)	1	2.22%
Total	45	100.00%

The Project will consist of multiple activities, some of which will create additional surface disturbance. These activities will warrant further cultural heritage assessment before commencing.

3.4.1.3 Project compliance

Areas and objects of particular significance to an Aboriginal person or group of persons will be managed through the approved CHMPs. CHMPs are a confidential agreement between the relevant Aboriginal Parties and ARTC and will not be released as part of the EIS. Compliance with the CHMPs during the Project activities will ensure compliance with the cultural heritage duty of care under the ACH Act.

Chapter 18: Cultural Heritage provides a further discussion on Aboriginal cultural heritage values in proximity to the Project.

3.4.2 Acquisition of Land Act 1967

3.4.2.1 Overview

The *Acquisition of Land Act 1967* (Qld) (AL Act) enables constructing authorities to acquire land for public purposes. The AL Act provides for the taking of an interest in land for a purpose under Schedule 1 of the AL Act. Schedule 1 Part 1 includes purposes relating to transportation, including for railways and related purposes.

3.4.2.2 Relevance to the Project

The acquisition of land and interests in land will be required for the construction and operation of the Project. The permanent disturbance footprint will directly impact 175 properties and the temporary disturbance footprint will impact 190 properties. Of these 175 properties:

- ▶ 171 properties (97.8 per cent) are freehold
- ▶ 3 properties (1.7 per cent) are Land Lease
- ▶ 1 property is Reserve (1 per cent)
- ▶ 112 properties are within the footprint of declared future railway corridor for the SFRC, 50 of which are owned by the Department of Transport and Main Roads (DTMR).

Properties would be acquired in full or in part, where practical. Additional land may also be acquired where necessary or by agreement with affected owners.

3.4.2.3 Project compliance

The Project has been designed to:

- ▶ Use the existing gazetted SFRC, where possible
- ▶ Align with roads and property boundaries where possible to reduce the severance of land parcels
- ▶ Reduce or mitigate potential impacts on property access, services or operational arrangements.

The majority of land will be acquired by a constructing authority that has compulsory acquisition powers. Where compulsory acquisition of land is required, the process in the AL Act will be followed. The arrangements between ARTC and a constructing authority are yet to be finalised. Temporary and permanent access to State land tenures such as USL, reserves and roads will be undertaken in accordance with the Land Act 1994 (Qld) (Land Act).

Chapter 8: Land Use and Tenure and Appendix G: Impacted Properties provide a further discussion regarding land requirements for the Project.

3.4.3 Agricultural Chemicals Distribution Control Act 1966

3.4.3.1 Overview

The *Agricultural Chemicals Distribution Control Act 1966* (ACDC Act) (Qld) and the *Agricultural Chemicals Distribution Control Regulation 1998* aim to control the distribution of agricultural chemicals from aircraft and from ground equipment. Herbicides, a category of agricultural chemicals, are defined as any material used or intended to be used for destroying or preventing the spread of weeds. Herbicides are registered by the Australian Pesticides and Veterinary Medicines Authority (APVMA). The misuse of herbicides has the potential to harm agriculture or livestock, the environment, trade, or human health, and the ACDC Act and Regulation are in place to ensure that commercial operators and their businesses distribute herbicides responsibly.

3.4.3.2 Relevance to the Project

Large areas of the EIS investigation corridor have significant weed growth, particularly non-native grasses, which have been introduced as part of historical agricultural land use of the area (refer Chapter 11: Flora and Fauna). In addition, Project activities have the potential to increase the proliferation of weeds and pests. There is a requirement to appropriately manage weeds and pests as part of Project works.

Under the ACDC Act, the EIS investigation corridor is mapped as being a 'regulated area', meaning the provisions of the ACDC Act apply. Within the regulated areas, three hazardous areas have been declared to protect susceptible crops in those areas from damage from certain volatile herbicides. The Project is not mapped within these hazardous areas.

3.4.3.3 Project compliance

Any use of pesticides or herbicides to manage pests and weeds will need to be undertaken in accordance with the ACDC Act. Ground distribution of pesticides and herbicides may require both the operator of the equipment and the company or business employing or directing the operators to be licensed in accordance with the ACDC Act. For the purposes of the Construction Environmental Management Plan (CEMP), the APVMA will regulate the lawful application of pesticides and herbicides for targeted pest and weed management activities.

A Biosecurity Management Plan will be developed as part of the CEMP and will include requirements under the ACDC Act. Refer Chapter 23: Draft Outline Environmental Management Plan for further details.

3.4.4 Biosecurity Act 2014

3.4.4.1 Overview

The *Biosecurity Act 2014* (Qld) (Biosecurity Act), supported by the *Biosecurity Regulation 2016*, safeguards the economy, agricultural and tourism industries, environment and way of life from:

- ▶ Pests (e.g. wild dogs and weeds)
- ▶ Diseases (e.g. foot-and-mouth disease)
- ▶ Contaminants (e.g. lead on grazing land).

The Biosecurity Act achieves this by providing comprehensive biosecurity measures to ensure a consistent, modern, risk-based and less prescriptive approach to biosecurity in QLD.

Under Section 23 of the Biosecurity Act, all people have a 'general biosecurity obligation'. This means that everyone is responsible for managing biosecurity risks that:

- ▶ Are under their control
- ▶ They know about or should reasonably be expected to know about.

Under the general biosecurity obligation, individuals and organisations whose activities pose a biosecurity risk must:

- ▶ Take all reasonable and practical steps to prevent or minimise each biosecurity risk
- ▶ Minimise the likelihood of causing a 'biosecurity event' and limit the consequences if such an event is caused
- ▶ Prevent or minimise the adverse effects the risk could have and not do anything that might make any adverse effects worse.

The Biosecurity Act classifies biosecurity risks as either prohibited matter or restricted matter. Under the Biosecurity Act, the Chief Executive of Department of Agriculture and Fisheries (DAF) can declare a place to be restricted (restricted place) if they suspect that place poses a biosecurity risk.

The Biosecurity Regulation 2016 prescribes procedures that must be undertaken when moving or storing a fire ant carrier within a fire ant biosecurity zone and requires a biosecurity instrumentation permit to be obtained in certain instances. Prohibited matter is not found in QLD and if prohibited matter is found or if it is believed that this matter exists, it must be reported immediately to Biosecurity Queensland. Restricted matter is found in QLD and action should be taken to limit its impact by reducing, controlling or containing it.

3.4.4.2 Relevance to the Project

Project activities, including the transport and movement of people, vehicles and machinery during construction, or the transport and movement of goods in operation, have the potential to increase biosecurity risks relating to the spread of weeds and pests.

It is anticipated that restricted matter will be encountered during construction and operation of the Project. The majority of the Project is situated within Fire Ant Biosecurity Zone 2, with a portion also situated within Fire Ant Biosecurity Zone 1. Under the Biosecurity Act, fire ants are a category 1 restricted matter.

3.4.4.3 Project compliance

To move soil from areas of the Project within a fire ant biosecurity zone, ARTC must obtain a biosecurity instrument permit and the construction contractor must have an approved Environmental Management Plan (EMP) from the DAF prior to carrying out activities, unless:

- ▶ The soil remains within Zone 1, or
- ▶ The soil is moved to a licensed waste management facility within Zone 1 or Zone 2.

Biosecurity risks within the Project disturbance footprint will be managed in accordance with the relevant requirements of the Biosecurity Act. A Biosecurity Management Plan will be developed as part of the CEMP. The CEMP will include weed and pest surveillance and treatment during construction and rehabilitation activities to reduce the potential impacts from biosecurity risks to agricultural properties.

Chapter 11: Flora and Fauna provides greater detail regarding biosecurity matters for the Project.

3.4.5 Building Act 1975

3.4.5.1 Overview

The *Building Act 1975* (Qld) (Building Act) regulates all building work in QLD. The Building Act specifies the type of work that constitutes assessable development under the Planning Regulation 2017 (Planning Regulation). Building work under the Building Act is assessable development unless it is:

- ▶ Declared under Section 21 of the Building Act to be accepted development; or
- ▶ Carried out by or for the State or a public sector entity, to the extent the building work complies with the relevant provisions for the building work.

3.4.5.2 Relevance to the Project

Development approvals for building works under the Planning Act will be required for components of the Project.

3.4.5.3 Project compliance

Development permits for building work will be obtained for buildings and structures including site offices and the tunnel control centre to support construction of the Project. Applications will be made as required/triggered during the detailed design phase.

3.4.6 Disaster Management Act 2003

3.4.6.1 Overview

The main objectives of the *Disaster Management Act 2003* (Qld) are:

- ▶ To help communities:
 - ▶ Mitigate the potential adverse effects of an event
 - ▶ Prepare for managing the effects of an event
 - ▶ Effectively respond to, and recover from, a disaster or an emergency situation
- ▶ To provide for effective disaster management for QLD.

A disaster is defined in Section 13 of the *Disaster Management Act 2003* as being a serious disruption in a community, caused by the impact of an event, that requires a significant coordinated response by the State and other entities to help the community recover from the disruption.

Under Section 16 of the *Disaster Management Act 2003*, an event is defined as any of the following:

- a) a cyclone, earthquake, flood, storm, storm tide, tornado, tsunami, volcanic eruption or other natural happening;
- b) an explosion or fire, a chemical, fuel or oil spill, or a gas leak;
- c) an infestation, plague or epidemic;
- d) a failure of, or disruption to, an essential service or infrastructure;
- e) an attack against the State;
- f) another event similar to an event mentioned in paragraphs (a) to (e).

An event may be natural or caused by human acts or omissions.

Serious disruption means:

- ▶ Loss of human life, illness or injury to humans
- ▶ Widespread or severe property loss or damage
- ▶ Widespread or severe damage to the environment.

3.4.6.2 Relevance to the Project

Chapter 20: Hazard and Risk identifies relevant hazards and risks in the existing environment (in the absence of the Project) and also a number of potential hazards that exist with the development of the Project. Hazards relevant to the *Disaster Management Act 2003* include:

- ▶ **Natural hazards:**
 - ▶ A large portion of the disturbance footprint is located on a floodplain with low-lying watercourses. Five major flooding events have been observed in the past 10 years in the Bremer River and Warrill Creek.
 - ▶ The disturbance footprint is predominately mapped as a 'Medium Potential Bushfire Intensity' Bushfire Prone Area, with an area of 'Very High Potential Bushfire Intensity' occurring between the Washpool and Undullah Range.
 - ▶ Exacerbation of flooding impacts.
- ▶ **Safety hazards:**
 - ▶ The Project crosses areas of steep slopes, specifically Peak Crossing, which requires significant cuttings and the use of a tunnel. The inclusion of the Teviot Range tunnel aims to reduce the risk of landslips; however, tunnels introduce other hazards associated with the risk of trespass, fire, explosion, flooding and subsidence. A serious accident in the tunnel would potentially involve temporary closure and significant expenditure for repair.
 - ▶ Freight of dangerous goods and/or hazardous chemicals during operation of the Project.

If these hazards are not managed appropriately, the possibility of a disaster increases.

3.4.6.3 Project compliance

The Project has assessed potential hazards and risks that, if not identified and managed appropriately, may increase the possibility of a disaster.

The design of the Project has been developed to minimise the risk of a number of potential hazards:

- ▶ The Project has been designed to achieve a 1% Annual Exceedance Probability (AEP) flood immunity and to minimise unacceptable impacts on the existing flooding and drainage regime, with the exception of connections to existing infrastructure that has an existing lower immunity.
- ▶ Design and ratings of earthwork and geotechnical structures including culverts and bridges has been developed in accordance with geotechnical investigation findings and slope design to minimise risk from landslides and subsidence.

The design of the Teviot Range tunnel has been based on geotechnical assessment and detailed ground modelling. Parameters such as space proofing, cross section, structure, design life and tunnel linings will meet the requirement of relevant Australian Standards. The tunnel has been designed with natural ventilation for management of heat, particulate matter, and gases. The design of the tunnel accounts for the presence of dangerous goods in the specification of safety features.

Refer Chapter 20: Hazard and Risk for a detailed discussion of the proposed mitigation measures regarding hazard and risk.

3.4.7 Economic Development Act 2012

3.4.7.1 Overview

The *Economic Development Act 2002* (Qld) provides for a streamlined planning and development framework for particular parts of QLD (declared as priority development areas) to facilitate economic development, and development for community purposes.

The Minister for Economic Development Queensland (EDQ) may declare a Priority Development Area (PDA) under the *Economic Development Act 2002*. PDAs are parcels of land within QLD identified for development to deliver significant benefits to the community.

EDQ manages development projects in some PDAs and supports development in regional and urban areas. Acting as a master developer, EDQ drives economic growth and projects include urban renewal, community developments, and renewable energy.

Under the *Economic Development Act 2012* there are two types of development instruments; an Interim Land Use Plan, and a Development Scheme.

3.4.7.2 Relevance to the Project

The EIS investigation corridor intersects a small portion of the Greater Flagstone PDA; however, the SFRC is recognised in the PDA context. The Greater Flagstone PDA was declared in October 2010 and covers an area of 7,188 hectares (ha). Once developed, the Greater Flagstone PDA is anticipated to provide approximately 50,000 dwellings to house a population of up to 120,000 people.

The Greater Flagstone PDA Development Scheme commenced on 8 October 2011. The development scheme is the regulatory document that assists with planning, carrying out, promoting, coordinating and controlling land development within the PDA.

3.4.7.3 Project compliance

The permanent and temporary disturbance footprints do not traverse the Greater Flagstone PDA.

3.4.8 Electricity Act 1994

3.4.8.1 Overview

The *Electricity Act 1994* (Qld) is the main legislation governing QLD's electricity industry and provides a framework for the generation, transmission and distribution of electricity in QLD. Under the *Electricity Act 1994*, the Department of Natural Resources, Mines and Energy (DNRME) issues generation, transmission and distribution authorities.

The aspects of development including material change of use, reconfiguring a lot and operational work within electricity easements and within 100 metres (m) of substation sites trigger referral under the Planning Regulation. This allows electricity distribution and transmission entities to assess, as advice agencies only, development that will interface with electricity infrastructure forming part of the distribution and transmission network.

Network service providers manage user connections to the electricity distribution network.

3.4.8.2 Relevance to the Project

Various aspects of the Project may require connection into the existing distribution network.

The Project also interfaces with easements in favour of electricity distribution and transmission entities. Subject to detailed design and siting investigations, this may include ancillary uses and activities located outside of the future rail corridor (e.g. concrete batch plants etc).

3.4.8.3 Project compliance

The Project will comply with requirements of the *Electricity Act 1994* through consultation and approval of connection plans with the appropriate distribution network service provider. Pending detailed design and siting investigations and where necessary, development applications will be referred to the appropriate electricity entity for assessment where works and/or infrastructure are proposed within or in close proximity to electricity easements and assets.

3.4.9 Electrical Safety Act 2002

3.4.9.1 Overview

The *Electrical Safety Act 2002* (Qld) is the legislative framework for electrical safety in QLD.

The purpose of the *Electrical Safety Act 2002* is to prevent people from being killed or injured and property from being destroyed or damaged by electricity.

Relevance to the Project

Electricity supply will be required for points, signalling and other infrastructure for the Project. It is anticipated that the supply of these services will be delivered by relevant providers under the terms of their respective approvals and/or assessment exemptions. In addition, the Teviot Range tunnel will require a substation building for power supply and distribution to electrical equipment.

Chapter 20: Hazard and Risk identified that there is the potential for construction activities around existing services to introduce a risk of collision of plant and equipment with aboveground services (e.g. transmission lines). Interactions with existing services could pose a risk to public safety and the natural environment and habitat. Damage to or contact with services during construction could result in service outage to nearby communities.

3.4.9.2 Project compliance

Overhead transmission lines and buried telecommunication cables will be identified before construction to ensure that construction and operation do not interfere or damage the utilities as per the requirements of the *Electrical Safety Act 2002*. The Project has considered the design of the alignment to minimise the potential interference with these overhead utilities.

The Project will also comply with the clearance distance as specified in the *ARTC Engineering Standard for Requirements—Electric Aerials Crossing ARTC Infrastructure* to ensure sufficient clearance and prevent contact with live electricity.

3.4.10 Environmental Offsets Act 2014

3.4.10.1 Overview

The main purpose of the *Environmental Offsets Act 2014* (EO Act) establishes a framework for environmental offsets in QLD to counterbalance the significant residual impacts of particular activities on prescribed environmental matters through the use of environmental offsets. The framework includes:

- ▶ EO Act
- ▶ Environmental Offsets Regulation 2014 (EO Regulation)
- ▶ Queensland Environmental Offsets Policy.

An environmental offset may be required as a condition of certain approvals where, following consideration of avoidance and mitigation measures, if the prescribed activity is likely to result in a significant residual impact on prescribed environmental matters.

The EO Act defines a prescribed environmental matter as any of the following:

- ▶ MNES
- ▶ Matters of State environmental significance (MSES)
- ▶ Matters of local environmental significance (MLES).

Once the administering authority has decided that a prescribed activity is required to provide an offset, the offset is required to be delivered in accordance with the EO Act, EO Regulation and the Queensland Environmental Offsets Policy.

To avoid duplication of offset conditions between jurisdictions, State and local governments can only impose an offset condition in relation to a prescribed activity, if the same, or substantially the same impact, and the same, or substantially the same matter has not been subject to assessment under, the EPBC Act, *Great Barrier Reef Marine Act 1975* (Cth) or another Commonwealth act prescribed by regulation.

The EO Act does not affect or limit the functions of the Coordinator-General under the SDPWO Act to impose offset conditions irrespective of the EO Act.

Environmental offsets for significant residual impacts to a prescribed matter may be delivered through a proponent-driven offset (e.g. land-based offset), a financial offset calculated in accordance with the Financial Settlement Offset Calculation Methodology, or a combination of proponent driven and financial offsets.

3.4.10.2 Relevance to the Project

There is the potential for some Project activities to have a cumulative, irreversible and/or permanent impact on some MNES and MSES, even after the implementation of all mitigation measures, including rehabilitation. In these cases, the residual impact will require an offset (where appropriate) to be provided should the residual impact be considered significant in accordance with the EPBC Act, EO Act and relevant policies.

Further discussion is contained in Chapter 11: Flora and Fauna, Appendix J: Terrestrial and Aquatic Ecology Technical Report, and Appendix K: Matters of National Environmental Significance Technical Report.

3.4.10.3 Project compliance

ARTC have undertaken an assessment under the Department of Environment and Heritage Protection (2014) *Significant Residual Impact Guideline* and the Department of the Environment, Water, Heritage and the Arts (Department of the Environment, 2013) *Significant Impact Guidelines 1.1—Matters of National Environmental Significance* to determine whether the Project will have a significant residual impact. Where appropriate, offsets have been proposed to compensate for the significant residual impacts and will be delivered via an Environmental Offset Plan post-EIS, following detailed design.

There are a number of options for legally securing an offset site, including offset protection area under the EO Act, voluntary declaration under the *Vegetation Management Act 1999* (Qld) (VM Act), protected area under the *Nature Conservation Act 1992 (Qld)* (NC Act), or statutory covenants under the *Land Title Act 1994* (Qld). All options will be considered, and the mechanism chosen will depend on circumstances for each offset site. Part property agreements are more likely to be secured through an offset protection area or high nature conservation value areas, and whole property acquisitions as high nature conservation value areas or private protected areas such as nature refuges or special wildlife reserves.

3.4.11 Environmental Protection Act 1994

3.4.11.1 Overview

The EP Act is QLD's overarching environmental legislative framework for the protection and management of environmental values. The aim of the EP Act is to protect the natural environment, associated ecological systems and processes while allowing for sustainable development that improves the total quality of life, both now and in the future, in a way that maintains ecological processes. The EP Act regulates activities that will or may have the potential to cause environmental harm and prescribes several mechanisms to ensure the objectives of the Act are met.

The EP Act also lists obligations and duties to prevent environmental harm, nuisances and contamination. The two primary duties that apply to everyone in QLD are:

- ▶ General environmental duty—which means a person must not carry out any activity that causes or is likely to cause environmental harm, unless all reasonable and practicable measures to prevent or minimise the harm have been taken (Section 319(1) of the EP Act). Environmental harm is defined in Section 14 of the EP Act as:
 - ▶ ... ‘any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance’.
- ▶ Duty to notify of environmental harm—which means that a person must inform the administering authority and landowner or occupier when an incident has occurred that may have caused or threatens serious or material environmental harm that is not authorised.

The EP Act also provides the power to administering authorities to order actions to be taken to improve environmental performance, conduct audits and environmental evaluations of activities, approve environmental management programs and impose penalties or prosecute persons for non-compliance with the requirements of the EP Act.

The EP Act, together with the Planning Act, provides a licensing regime for Environmentally Relevant Activities (ERAs). ERAs are prescribed under Schedule 2 of the Environmental Protection Regulation 2008 (Qld) (EP Regulation) and include activities where the Governor in Council is satisfied that:

- ▶ A contaminant will or may be released into the environment where the activity is carried out
- ▶ The release of the contaminant will or may cause environmental harm.

Approval in the form of an EA is required to lawfully undertake a prescribed ERA under Schedule 2 of the EP Regulation. Where a prescribed ERA is also listed as a Concurrence ERA in Schedule 2, a development permit for an MCU under the Planning Act is also required where a change of land use occurs.

The EP Act also requires that any person carrying out an ERA must be a Registered Suitable Operator, who is a person or corporation registered by Department of Environment and Science (DES) as being suitable to undertake an ERA. Once a person or corporation becomes registered, the registration remains in effect unless it is suspended or cancelled.

The following Environmental Protection Policy (EPP) subordinate legislation supports the operation of the EP Act:

- ▶ Environmental Protection (Air) Policy 2019 (EPP Air)
- ▶ Environmental Protection (Noise) Policy 2019 (EPP Noise)
- ▶ Environmental Protection (Water and Wetland Biodiversity) Policy 2019 (EPP Water and Wetland Biodiversity).

The DES has also developed a suite of guidelines to assist proponents by specifying the information that must be included within an application for an EA. The guidelines include information required in relation to impacts to land, water and air.

In addition to provisions under the EP Act relating to the assessment and management of contaminated land, the EP Act also contains provisions for the lawful disposal of contaminated soil. Under Section 739 of the EP Act, the removal and disposal of contaminated soil from land that is recorded on the Contaminated Land Register (CLR) or Environmental Management Register (EMR) to an offsite location must obtain a disposal permit in order to lawfully undertake the works. Disposal permits enable appropriate and legal disposal and tracking of contaminated soil or materials.

3.4.11.2 Relevance to the Project

Under the EP Act, assessment and approval is required if the Project involves:

- ▶ Prescribed ERAs
- ▶ Movement of soil from land on the EMR or CLR to another parcel of land.

Further, when considering the proposed works, and as part of making any environmental management decision under the EP Act, the administering authority is required to have regard to the matters set out under the EP Regulation, which includes consideration of the relevant EPPs.

The following ERAs prescribed under Schedule 2 of the EP Regulation may be required as part of the Project's construction phase:

- ▶ *Chemical storage (ERA 8) consists of storing:*
 - a) *50 t or more of chemicals of dangerous goods class 1 or class 2, division 2.3 in containers of at least 10 m*
 - b) *50 t or more of chemicals of dangerous goods class 6, division 6.1 in containers capable of holding at least 900 kg of the chemicals*
 - c) *more than 500 m³ of chemicals of class C1 or C2 combustible liquids under Australian Standard (AS) 1940 or dangerous goods class 3*
 - d) *the following quantities of other chemicals in containers of at least 10 m³—*
 - i) *200 t or more, if they are solids or gases*
 - ii) *200 m³ or more, if they are liquids.*

- ▶ *Extractive and screening activities (ERA 16):*
 - a) *extracting, other than by dredging, a total of 5,000 t or more of material, in a year, from an area*
 - b) *screening 5,000 t or more of material, in a year.*
- ▶ *Under Section 16 (2)(c), the relevant activity does not include extracting material from a place for constructing a road or railway at the place.*
- ▶ *Cement manufacturing (ERA 41):*
 - ▶ *Consists of, in a year:*
 - a) *Manufacturing 200 t or more of cements*
 - b) *Calcining 200 t or more of limestone.*
- ▶ *Regulated waste transport (ERA 57):*
 - ▶ *Consists of transporting regulated waste in a vehicle (refer to Section 57(2) of the EP Regulation for exclusions).*
- ▶ *Water treatment (ERA 64):*
 - ▶ *Consists of carrying out any of the following activities in a way that allows waste, whether treated or untreated, to be released into the environment—*
 - a) *desalinating 0.5 ML or more of water in a day*
 - b) *treating 10 ML or more of raw water in a day*
 - c) *carrying out advanced treatment of 5 ML or more of water in a day.*

3.4.11.3 Project compliance

ARTC will comply with the general environmental duty through the implementation of the environmental management plans for the construction and operational phases of the Project.

The Project CEMP will reflect the requirements outlined in the EEP (Air), EPP (Noise) and EPP (Water and Wetland Biodiversity). Further discussion of the Project's consideration of the EPP requirements is contained in Chapter 12: Air Quality, Chapter 15: Noise and Vibration, Chapter 13: Surface Water and Hydrology, and Chapter 23: Draft Outline Environmental Management Plan.

The type and location of ERAs required in support of construction of the Project is yet to be confirmed. Therefore, the Project is not seeking approval for ERAs as part of the EIS assessment process. Separate applications will be made to regulators when an appropriate level of information is available.

Relevant statutory approvals including EAs, development permits for a material change of use for a concurrence ERA and Suitable Operator Registration will be obtained by the appointed contractor prior to commencing the relevant works. Applicants for EAs will consider relevant guidelines (including but not limited to) *Guideline: Environmental authorities—Approval processes for environmental authorities* (DES ESR/2015/1743 Version 5 or later) and the relevant

guidelines regarding application requirements for activities with impacts to land, water and air.

Where soil from a landholding listed on the EMR/CLR cannot be treated or managed on site and requires removal offsite, a disposal permit will be obtained by the approved contractor to authorise movement of the soil to a licensed waste disposal or treatment facility.

3.4.12 Explosives Act 1999

3.4.12.1 Overview

The *Explosives Act 1999* (Qld) (Explosives Act) provides a framework to ensure the safe use, storage, handling and disposal of explosive material so as not to endanger persons, property or the environment. The Explosives Act is enforced by the Explosives Inspectorate.

Under the Explosives Act, blasting can only be conducted by a person holding a shotfirer's licence.

Notification obligations for the use of explosives in blasting other than at a mine, or explosives factory are set out in Sections 154 (1) and 155 of the Explosives Regulation 2017. Under the Regulation, a Blasting Notification (BN) Form must be lodged with the DNRME's Explosives Inspectorate a minimum of seven days before the blasting is to occur.

In accordance with Section 154(2) of the Explosives Act, it is a requirement for a BN to include certain information.

3.4.12.2 Relevance to the Project

Explosives may be used during construction of the Project to advance excavations by blasting of rock in locations where substantial cuts are required, including for the proposed tunnel through the Teviot Range. Locations where blasting may be required have been identified in Chapter 15: Noise and Vibration.

3.4.12.3 Project compliance

Explosives will be transported, stored and used in a manner that is compliant with the following requirements:

- ▶ *Explosives Act 1999*
- ▶ Storage of explosives is to meet requirements detailed in Part 8 of the Explosives Regulation 2017 and AS 2187.1
- ▶ Transport of explosives is to meet requirements detailed in Part 9 of the Explosives Regulation 2017, the Australian Explosives Code and the Australian Dangerous Goods Code
- ▶ Using explosives is to meet the requirements in Part 10 of the Explosives Regulation 2017 and AS 2187.2-2006 Explosives—Storage and Use Part 2: Use of Explosives.

3.4.13 Fire and Rescue Services Act 1990

3.4.13.1 Overview

The objectives of the *Fire and Rescue Services Act 1990* (Qld) are to:

- ▶ Provide for the prevention of, and responses, to fires and other emergency incidents
- ▶ Provide for rescue services and operations
- ▶ Establish a framework for the management of:
 - ▶ Queensland Fire and Emergency Service (QFES)
 - ▶ State Emergency Service (SES)
 - ▶ Emergency service units established for an emergency service area
 - ▶ Conduct of authorised rescue officers.

3.4.13.2 Relevance to the Project

During the operational phase, tunnel operations will require power and water supplies to provide ventilation required for maintenance fire safety. It is anticipated that the supply of these services will be delivered by relevant service providers. Fire pumps and tanks will be required to support the operation of the Teviot Range tunnel.

In case of the train stopping in the tunnel due to fire or other emergency the design incorporates a fire-rated longitudinal egress passage.

During the construction of the Project, emergency services are to be kept informed of project progress and changes in traffic management plans to ensure services are maintained in the surrounding region.

3.4.13.3 Project compliance

The tunnel design has incorporated fire and life safety mitigation measures, to ensure appropriate facilities are available. These mitigation measures include limiting the amount of combustible materials used in construction, providing fire detection systems, preventing derailed trains from entering the tunnel, and preventing trains that are on fire from stopping in the tunnel.

3.4.14 Fisheries Act 1994

3.4.14.1 Overview

The *Fisheries Act 1994* (Qld) (Fisheries Act) provides for the use, conservation and enhancement of fisheries resources and fish habitats in QLD. The DAF is responsible for the conservation and management of fish habitats in QLD, and for assessing fisheries development under the Fisheries Act in combination with the Planning Act.

Schedule 1 of the Fisheries Act defines waterway barrier works as a dam, weir or other barrier across a waterway if the barrier limits fish stock access and movement along a waterway. Operational work that is constructing or raising waterway barrier works can be either accepted or assessable development under the Planning Act and Fisheries Act.

3.4.14.2 Relevance to the Project

Activities associated with the Project, such as the construction of the rail line and access roads will require works across waterways. The Project traverses mapped waterways requiring a Development Permit for Operational Works, that is constructing or raising waterway barrier works, unless the works are accepted development under the Fisheries Act.

The permanent disturbance footprint crosses a total of 30 waterways that are classified on a colour-coded scale based on the potential risk of impact (low to major) on the *Queensland Waterways for Waterway Barrier Works* mapping:

- ▶ Low risk of impact (category 1)—nine waterways mapped as 'Low' (green)
- ▶ Moderate risk of impact (category 2)—ten waterways mapped as 'Moderate' (amber)
- ▶ High risk of impact (category 3)—four waterways mapped as 'High' (red)
- ▶ Major risk of impact (category 4) —seven waterways mapped as 'Major' (purple).

3.4.14.3 Project compliance

Project design criteria for cross-drainage structures that interface with mapped waterways have been developed to meet the accepted development requirements for category 1, 2 and 3 waterways. The design of each cross drainage and bridge structure will be verified at the detailed design stage to confirm compliance with the accepted development criteria.

Engagement with the DAF will be required to confirm whether the proposed works constitute a waterway barrier. This is particularly relevant to bridges with in-stream components such as piers and scour protection.

Where structures do not meet the accepted development requirements (including bridges that constitute waterway barrier works), development permits for operational work that is constructing or raising waterway barrier works (Planning Regulation, Schedule 10, Part 6, Division 4, Section 12) will need to be obtained.

Chapter 11: Flora and Fauna and Chapter 13: Surface Water and Hydrology provide further detail regarding aquatic environments and waterways affected by the Project.

3.4.15 Forestry Act 1959

3.4.15.1 Overview

The purpose of the *Forestry Act 1959* (Qld) (Forestry Act) is to provide for forest reservations, the management, silvicultural treatment and protection of State forests, and the sale and disposal of forest products and quarry material, the property of the Crown on State forests, timber reserves and on other lands; and for other purposes.

State land includes State forests, leasehold land and USL. The Forestry Act manages and protects State forests and State-owned forest resources. Under Section 45, the Crown has ownership of all forest products. Sections 53 and 54 prohibit interference with forest products on State land other than under a permit granted under the Forestry Act or another Act.

Furthermore, the Forestry Act seeks to regulate the sale and disposal of the State's native forest products and quarry materials within these areas and on other Crown land. Under the Forestry Act, quarry material includes any stone, gravel, sand, rock, clay and earth that are not defined as a mineral under the *Mineral Resources Act 1989* (Qld). Quarry material within the non-tidal reaches of streams (called watercourses), freshwater natural lakes and the associated outer banks is regulated via the *Water Act 2000* (Qld) (Water Act).

Section 25 of the Forestry Act gives power to the Governor in Council, by way of regulation, to set apart and declare particular land as a State forest. This includes any Crown land, or land that is part of an existing timber reserve, or a forest reserve that is declared under the NC Act.

A permit is required to interfere with any forest products in any State forest, timber reserve, forest entitlement area, and on leasehold land or USL.

3.4.15.2 Relevance to the Project

The Project does not traverse any areas of State forest, timber reserves, forest entitlement areas or USL, but does traverse roads, reserves and leasehold land, recognised as State lands.

A permit is required to interfere with any forest products in any State forest, timber reserve, forest entitlement area, and on leasehold land or USL.

Chapter 8: Land Use and Tenure and Appendix G: Impacted Properties describe the land uses and land tenure within the study area and directly impacted by the Project.

3.4.15.3 Project compliance

Where necessary, an allocation of quarry material will be sought for removal of materials within these tenures.

3.4.16 Land Act 1994

3.4.16.1 Overview

The Land Act prescribes the framework for the allocation of non-freehold land tenure and its subsequent management. The Land Act is administered by DNRME and regulates the management of State land in QLD for the benefit of the people by having regard to seven key principles: sustainability, evaluation, development, community purpose, protection, consultation and administration.

Chapter 3, Part 2 of the Land Act provides for, relevantly, the dedication and opening of roads, the closing of roads (including temporary and permanent road closure applications) and the issuing of road licences for temporarily closed roads. DNRME requires tenure to be issued under the Land Act for the occupation and use of a reserve, road, lands lease or USL. A permit to occupy is also required for any underground infrastructure that is proposed beneath land governed by State-held tenure.

3.4.16.2 Relevance to the Project

State land and local roads are generally managed under the Land Act.

Where the permanent disturbance footprint traverses local roads and other State land, the land will be secured by the applicant in accordance with the Land Act.

The Project will also require access to non-freehold land for construction. In some instances, appropriate tenure or interest in State land will be required for the Project under the Land Act.

3.4.16.3 Project compliance

Where the Project requires tenure or interest in State land, ARTC and/or the constructing authority will engage with the relevant State Land Asset Management Unit (SLAM) within DNRME and where applicable the relevant asset owner to discuss options and to begin proceedings under the Land Act. In addition, ARTC will also liaise with adjoining property owners and the relevant road/rail manager (local government, DTMR or QR) in the instance that temporary or permanent works (such as road closures) are required.

3.4.17 Mineral Resources Act 1989

3.4.17.1 Overview

The *Mineral Resources Act 1989* provides the framework for exploration, development and mining tenure. Under the *Mineral Resources Act 1989*, the following mining tenements can be granted:

- ▶ Prospecting permits—a prospecting permit can be sought for any mineral other than coal and entitles the holder to prospect, hand-mine and peg a mining lease or claim.
- ▶ Exploration permits—exploration permits allow for more advanced methods to determine the quantity and quality of materials present. Permitted activities under exploration permit includes prospecting, conducting geophysical surveys, drilling and sampling and testing of materials.
- ▶ Mineral development licences—mineral development licences are issued to allow the holder to evaluate the development potential of the defined resource. Mineral development licences can be granted if an exploration permit is held where there is a significant mineral occurrence of possible economic potential.
- ▶ Mining claims—a mining claim can be issued for any mineral other than coal. A mining claim allows the holder to conduct small-scale mining operations such as prospecting and hand-mining.
- ▶ Mining leases—a mining lease allows the holder to conduct larger scale mining operations. Mining leases can be issued for any specified material, with permitted activities within the lease area including machine mining or other activities associated with mining or promoting the activity of mining.

3.4.17.2 Relevance to the Project

The Project EIS investigation corridor traverses one mining lease (ML 4712) held by Zedemar Holdings Pty Ltd at approximate chainage (Ch) 12.4 km to Ch 13.1 km. The mining lease is associated with the Ebenezer coal mine and the EIS investigation corridor intersects the southern boundary of the lease area. The Ebenezer coal mine is currently not operational, and the land is planned to be rehabilitated.

The mineral resource interests traversed by the disturbance footprint are summarised in Chapter 8: Land Use and Tenure.

There are no granted coal or mineral exploration permits within the EIS investigation corridor.

3.4.17.3 Project compliance

The permanent disturbance footprint does not traverse the current mining lease (ML 4712) associated with the Ebenezer coal mine. It is therefore considered unlikely the Project will impact on the intended land use of coal mining associated with this mining lease, as the mine is currently not operational and is planned to be rehabilitated.

Although not required under the *Mineral Resources Act 1989*, consultation with relevant holders of coal or mineral authorities will be undertaken during detailed design.

3.4.18 Native Title (Queensland) Act 1993

3.4.18.1 Overview

Consistent with the NT Act, the *Native Title (Queensland) Act 1993* is the law of QLD that provides for validation of certain historic acts undertaken in QLD that were invalidated because of the existence of native title. The NT Act confirms that particular acts previously undertaken in QLD have resulted in the extinguishment of native title. The NT Act has been developed to ensure that QLD law is consistent with the standards set by the Commonwealth NT Act for future dealing affecting native title.

3.4.18.2 Relevance to the Project

Tenure within the disturbance footprint is predominately freehold where, pursuant to the *Native Title (Queensland) Act 1993*, native title rights have been extinguished.

The disturbance footprint is subject to active and potential native title claims and contains lands where registered Aboriginal parties can claim native title.

There are two registered native title determinations related to the Project, as follows:

- ▶ Yuggera Ugarapul People
- ▶ Danggan Balun (Five Rivers) People.

3.4.18.3 Project compliance

Where it is determined that native title has not been previously extinguished or suppressed within the disturbance footprint, ARTC will seek the suppression, in accordance with Section 24KA (future act (non-extinguishment principle)), of the native title rights and interests in question prior to construction of the Project. The area that is being suppressed under Section 24KA should include all areas incidental to the construction of the Project. This will be compulsory process, to enable the necessary interests in Crown land required to construct the Project to be granted.

Details on native title claims are further discussed in Chapter 8: Land Use and Tenure.

3.4.19 Nature Conservation Act 1992

3.4.19.1 Overview

The NC Act is the principal piece of legislation governing nature conservation in QLD. The objective of the NC Act is the conservation of nature while allowing for the involvement of landholders and Indigenous people in the management of protected areas in which they have an interest under Aboriginal tradition or Island custom. A framework is created under the NC Act for the dedication, declaration and management of protected areas, protection of wildlife and its habitat.

The NC Act also includes mechanisms for the protection of protected areas.

In QLD threatened species are listed under the NC Act in the following categories:

- ▶ Protected wildlife, that is:
 - ▶ Extinct
 - ▶ Extinct in the wild
 - ▶ Critically endangered
 - ▶ Endangered
 - ▶ Vulnerable
 - ▶ Near threatened, where a species is at risk of becoming threatened in the near future
 - ▶ Special least concern
 - ▶ Least concern.

The Nature Conservation (Animals) Regulation 2020 and Nature Conservation (Plants) Regulation 2020 (replacing the previously repealed Nature Conservation (Wildlife) Regulation 2006) list the flora and fauna recognised as extinct in the wild, endangered, vulnerable and near threatened. The Nature Conservation (Animals) Regulation 2020 and Nature Conservation (Plants) Regulation 2020 further addresses the significance and declared management intent for each class.

Authorisations are required under the NC Act for any proposed clearing that impacts Endangered, Vulnerable or Near-Threatened (EVNT) species (clearing permit), any proposed clearing within a mapped 'flora survey trigger area' for which no impact to EVNT species will occur (exempt clearing notification) as well as the tampering of an animal breeding place (low-risk or high-risk species management program), interfering with a cultural or natural resource in a protected area or erecting a structure in a protected area.

Further, a person must not take, use, keep or interfere with a protected animal unless the person is an authorised person. Further, a person, other than an authorised person, must not take, use, keep or interfere with native wildlife (other than protected wildlife) in an area that is identified under a regulation or a conservation plan as, or including a critical habitat or an area of major interest. Permits and licences are required to authorise interference with certain native wildlife.

3.4.19.2 Relevance to the Project

Clearing of vegetation and works associated with the Project may impact on EVNT flora and fauna species, as listed under the NC Act.

The following permits and management plans may be required for the Project:

- ▶ Wildlife Movement Permits (Sections 88 and 97 of the NC Act) for wildlife protected under the NC Act, and those found in certain areas covered by conservation plans created and implemented under the NC Act
- ▶ Clearing Permit (Protected Plants) (Section 89 of the NC Act) for the clearing of vegetation contained within high risk areas identified on the DES flora survey trigger map
- ▶ Rehabilitation Permit (spotter catcher endorsement) (Section 200 of the Nature Conservation (Animals) Regulation 2020)
- ▶ Damage Mitigation Permit (removal and relocation) (Section 161 of the Nature Conservation (Animals) Regulation 2020)
- ▶ Species Management Plan submitted to the DES for approval for tampering with some animal breeding places (Section 335 of the Nature Conservation (Animals) Regulation 2020).

3.4.19.3 Project compliance

To inform approval requirements under the NC Act, further ecological surveys in accordance with relevant guidelines (e.g. DES Flora Survey Guidelines—Protected Plants) will be undertaken during detailed design. The surveys will aim to address changes to the Project design, methodology and footprint, along with further informing the design and construction, including specific measures to avoid, mitigate, minimise impacts on a particular species, along with ongoing monitoring activities.

A Flora and Fauna Management Plan will be developed for the Project that will outline specific measures to tamper with animal breeding places. Alternatively, species management programs will be sought. Both approaches will require consultation with relevant State government agencies and where applicable, DAWE.

Where a permit under the NC Act is required in support of proposed Project activities, the necessary permit will either be obtained by the construction contractor in advance of commencing the activity, or an appropriately licensed specialist, holding valid permits, will be engaged to undertake the tasks.

Chapter 11: Flora and Fauna describes the biodiversity and natural environmental values of the terrestrial and aquatic ecology likely to be impacted by the Project.

3.4.20 Petroleum and Gas (Production and Safety) Act 2004

3.4.20.1 Overview

Several different authorities for petroleum and gas exploration and production activities in QLD are regulated under the *Petroleum and Gas (Production and Safety) Act 2004* (QLD). Petroleum and gas authorities are granted for:

- ▶ Exploration: authority to prospect (ATP), potential commercial area (PCA)
- ▶ Production: petroleum lease
- ▶ Infrastructure development: petroleum facility licence and petroleum pipeline licence
- ▶ Information gathering: petroleum survey licence, water monitoring authority and data acquisition authority.

The holder of the ATP may carry out the following activities within the area of the authority:

- ▶ Explore for petroleum
- ▶ Test for petroleum production
- ▶ Evaluate the feasibility of petroleum production
- ▶ Evaluate or test natural underground reservoirs for the storage of petroleum or a prescribed storage gas.

An ATP area can be declared a PCA under Section 90 of the *Petroleum and Gas (Production and Safety) Act 2004*. A PCA retains an ATP beyond its term to provide more time to commercialise the resource.

3.4.20.2 Relevance to the Project

The EIS investigation corridor crosses two ATP permits for petroleum exploration (ATP641 and ATP644). Both permits are held by B.N.G. Pty Ltd. There are two current applications for a PCA for petroleum (PCA 223 and PCA 198), held by B.N.G. Pty Ltd, that are located over the ATP permits. These petroleum and gas resource interests traversed by the EIS investigation corridor are summarised in Chapter 8: Land Use and Tenure.

There is one petroleum licence that traverses the EIS investigation area. This pipeline licence is associated with the Moonie to Brisbane (PPL 1) pipeline and is detailed in Chapter 8: Land Use and Tenure.

The Project may impact petroleum resources within these tenements as the amount of land within these areas that is available for production will be reduced.

3.4.20.3 Project compliance

While there are no specific compliance requirements under the *Petroleum and Gas (Production and Safety) Act 2004*, consultation with resource interest holders will be undertaken during detailed design. Where the Project may impact on likely significant deposits within the area, appropriate mitigation will be agreed with the resource interest holders.

Once the proponent becomes the landholder of the rail corridor, it is a requirement of the Land Access Code 2016 that the proponent consult with petroleum tenure holders. The proponent acknowledges their responsibilities under this provision and intends to advise B.N.G. Pty Ltd as soon as possible of any changes in operations or management programs.

3.4.21 Planning Act 2016

3.4.21.1 Overview

The Planning Act establishes the framework and overarching policy for land use planning for the State. The purpose of the Planning Act:

‘...is to establish an efficient, effective, transparent, integrated, coordinated and accountable system of land use planning and development assessment to facilitate the achievement of ecological sustainability.’

This is achieved through:

- i) the protection of ecological processes and natural systems at local, regional, State, and wider levels
- ii) economic development
- iii) the maintenance of the cultural, economic, physical and social wellbeing of people and communities.

Under the Planning Act, development is either accepted, assessable or prohibited. The Planning Act also establishes a development assessment system (DA Rules), by which assessment managers assess and make decisions on development applications. The DA Rules set out a standardised assessment process to ensure State-wide consistency and transparency in development assessment.

Development that is prescribed as assessable development by the State in Schedule 10 of the Planning Regulation or by a local government through a planning scheme is assessable development for which an application for development approval is required under the Planning Act, together with the relevant assessment manager and referral agencies identified in Schedules 10 and 8 (respectively) of the Planning Regulation.

Through the State Assessment and Referral Agency (SARA), the Queensland Treasury coordinates the referral process for development applications where the State has a jurisdiction under Schedule 8 or 10 of the Planning Regulation.

Under Division 4, Subdivision 1 of the SDWPO Act there are provisions within the development assessment process for the assessment of development that is the subject of an EIS. These provisions are discussed in Section 3.2.1.4.

Schedule 6 of the Planning Regulation identifies development that cannot be made assessable under a local government planning scheme. Relevantly, this includes:

Schedule 6, Part 5, Section 26—infrastructure activities:

1. *Development for ancillary works and encroachments for a road carried out by or for the State*
2. *Development for the construction of the following infrastructure, if the infrastructure is government supported transport infrastructure—*
 - d) *transport infrastructure*
3. *Development that:*
 - a) *is adjacent to—*
 - iv) *transport infrastructure; and*
 - b) *ancillary to the use, maintenance, repair or upgrading of the infrastructure.*

The following definition under Schedule 24 is relevant to the applicability of this exemption—

‘...government supported transport infrastructure’ means infrastructure for transport that is for public use and funded, wholly or partly, by the State or Commonwealth, or provided by a person, other than under a development approval or infrastructure agreement, on conditions that are agreed to by the Government, and are intended to support the commercial viability of the infrastructure.’

This definition relies on the terms ‘transport infrastructure’ and ‘rail transport infrastructure’ which are defined under Schedule 6 of the *Transport Infrastructure Act 1994* (Qld) (TI Act). A discussion of these terms is provided in Section 3.4.30.

Further, the definition also relies on the term ‘public use’. ‘Public use’ is not defined in the Planning Act and therefore the phrase has its ordinary meaning.

Schedule 7 of the Planning Regulation identifies development that is accepted development for which approval is not required. Under Part 3, this includes,

relevantly, operational work for constructing or raising a waterway barrier, where the requirements for the works are prescribed under Fisheries Act, and the work complies with the requirements (i.e. the accepted development requirements for operation work that is constructing or raising of waterway barrier works. Further discussion regarding waterway barrier works approval requirements and exemptions is provided in Section 3.4.14.

Schedule 21 of the Planning Regulation also identifies vegetation clearing work that is exempt clearing work, for which approval is not required. A discussion of this is provided in Section 3.4.33.

The Queensland State Development Assessment Provisions (SDAP) are the assessment benchmarks used by the State in development assessment in accordance with the Planning Regulation. The SDAP is a statutory instrument under the Planning Act and has effect throughout the State where the chief executive is the assessment manager or referral agency for development applications that affect a state interest. Under the Planning Act, a state interest is defined as an interest that the Planning Minister considers affects an economic or environmental interest of the State or part of the State or affects the interest for/of ensuring that the purpose of the Planning Act is achieved.

The SDAP consists of state codes, which are supported by Development Assessment mapping. Applicants must address the relevant state code/s of the SDAP as part of a development application.

3.4.21.2 Relevance to the Project

The coordinated project declaration under the SDWPO Act does not exempt ARTC from the need to obtain relevant development approvals or infrastructure designation under the Planning Act.

The Project is, however, considered exempt from assessment under a local government planning scheme by Schedule 6, Part 5, Section 26 as ‘government supported transport infrastructure’ given:

- ▶ It is infrastructure for transport, being rail transport infrastructure as defined under Schedule 6 of the TI Act (refer Section 3.4.30)
- ▶ It is infrastructure for transport that is for a public use. The Project falls within the ordinary meaning of a ‘public use’ as:
 - ▶ The Inland Rail Program provides a freight service that is available for use by the public
 - ▶ The payment of a fee for use of the service does not detract from the public nature of the service
 - ▶ The rail corridor will be on State-owned land, and subject to a statutory lease under Section 240 of the TI Act.
- ▶ It is funded partly by the Australian Government.

The Project will trigger the requirement to obtain development approval for various aspects of development assessable under the Planning Regulation following the completion of the EIS process depending on the type and location of activity and whether any exemptions apply.

Each of the relevant SDAP state codes will be addressed as part of the reporting to support the lodgement and assessment of the necessary post-EIS development applications.

3.4.21.3 Project compliance

The potential development applications that may be required are identified in Section 3.6.

3.4.22 Plumbing and Drainage Act 2018

3.4.22.1 Overview

The *Plumbing and Drainage Act 2018* (Qld) (Plumbing and Drainage Act) provides the legislative framework for plumbing and drainage in QLD and is overseen by the Department of Housing and Public Works (DHPW). The Plumbing and Drainage Act provides for the licensing of plumbers and drainers, and the approval of particular plumbing and drainage works throughout QLD. It aims to regulate the carrying out of plumbing and drainage work in a way that reduces risks to public health and safety, and the environment.

3.4.22.2 Relevance to the Project

Aspects of the Project that are expected to require approvals under the Plumbing and Drainage Act include site office facilities that require regulated plumbing and/or drainage.

3.4.22.3 Project compliance

Approvals for plumbing or drainage work for site office facilities will be obtained where required.

3.4.23 Public Health Act 2005

3.4.23.1 Overview

The objective of the *Public Health Act 2005* (Public Health Act) is to protect and promote the health of the QLD public by, relevantly:

- ▶ Preventing, controlling and reducing risks to public health
- ▶ Providing for the identification of, and response to, notifiable conditions
- ▶ Imposing obligations on persons and particular health care facilities involved in the provision of declared health services to minimise infection risks
- ▶ Inquiring into serious public health matters
- ▶ Responding to public health emergencies
- ▶ Providing for compliance with this Act to be monitored and enforced.

The QLD Government's *Health considerations—Environmental Impact Statement: Guidelines for Proponents* (Department of Health, 2016) has been developed to ensure that EIS proponents identify relevant environmental hazards that have the potential to impact on human health and wellbeing and provide guidance to proponents on how to demonstrate that risks to human health have been minimised.

3.4.23.2 Relevance to the Project

The Project has the potential to generate impacts that may impact on human health and wellbeing. Measures to avoid, minimise and manage Project impacts will, therefore, be required. These requirements have been considered in developing the design for the Project and will continue to be relevant for advancing the detailed design post-EIS.

3.4.23.3 Project compliance

The requirements listed in *Health Considerations—Environmental Impact Statement: Guidelines for Proponents* (Department of Health, 2016) have been considered and addressed by the Project, as follows:

- ▶ Air quality: an air quality assessment was undertaken, which demonstrates how the Project complies with the EPP (Air). Additional details are provided in Chapter 12: Air Quality.
- ▶ Noise: an environmental noise assessment was undertaken, which demonstrates how the Project complies with the EPP (Noise). Additional details are provided in Chapter 15: Noise and Vibration.
- ▶ Water quality: water quality issues associated with the Project, and discussion on how these issues will be managed in accordance with the EPP (Water and Wetland Biodiversity) are covered in Chapter 13: Surface Water and Hydrology.
- ▶ Land management (i.e. contaminated land, waste management, biosecurity, and vector and pest management): land management issues associated with the Project, and discussion on how these issues will be managed, is covered in Chapter 9: Land Resources and Chapter 11: Flora and Fauna.
- ▶ Community health and social aspects: community health and social issues associated with the Project, and discussion on how these issues will be managed, is covered in Chapter 16: Social.

Further, Chapter 23: Draft Outline Environmental Management Plan provides the environmental management framework to ensure that reasonable environmental outcomes are achieved for construction and commissioning of the Project, which includes consideration of aspects with the potential to impact human health and wellbeing.

3.4.24 Queensland Heritage Act 1992

3.4.24.1 Overview

Heritage in QLD is protected by the *Queensland Heritage Act 1992* (QLD) (QH Act). The aim of the QH Act is to protect heritage areas that are assessed to be of State significance for the benefit of the community and future generations. The identified heritage areas are placed on the Queensland Heritage Register and administered by the Queensland Heritage Council with advice from DES.

The Planning Act and the QH Act regulate development on State heritage places to protect their cultural heritage significance and ensure their values are conserved. Any works that have the potential to impact the heritage significance of a State heritage place requires either exemption or approval under the QH Act or the Planning Act.

The QH Act also creates a framework for the identification and management of places of local heritage significance. Under the Planning Regulation, development on a local heritage place is assessable development, except where the development is stated in Schedule 6. Included in this Schedule is development for infrastructure facilities (transport infrastructure).

The QH Act also protects archaeological artefacts and underwater cultural heritage artefacts, requiring notification of the discovery of any object that is an important source of information about an aspect of QLD's history. It is an offence to knowingly destroy or otherwise interfere with such an object.

3.4.24.2 Relevance to the Project

A search of the Queensland Heritage Register indicated that there are no State heritage places within the cultural heritage study area (refer Chapter 18: Cultural Heritage), and so no approvals or exemptions will be required under the QH Act or the heritage components of the Planning Act.

As transport infrastructure, the Project is exempt from local heritage protections, and searches undertaken of relevant local registers indicated that there are no such places within the cultural heritage study area (refer Chapter 18: Cultural Heritage).

It is possible that archaeological discoveries will be made during project works. Any finds that have the potential to be of State significance must be reported to DES.

3.4.24.3 Project compliance

A Heritage Management Plan will be developed as part of the CEMP. The Heritage Management Plan will detail mitigation and management measures to be implemented during construction in relation to cultural heritage.

The Project has undertaken a heritage assessment. Chapter 18: Cultural Heritage provides a further discussion on non-Indigenous cultural heritage values within the cultural heritage study area. As the current disturbance footprint does not include any direct interfaces with State heritage places, no approvals are required under the Planning Act and QH Act.

The Project will not intersect with local heritage places and is exempt from the requirement to obtain approval for development on local heritage places under Schedule 6 of the Planning Regulation.

Protocols for managing discoveries of archaeological materials are provided in the Heritage Management Plan.

3.4.25 Rail Safety National Law (Queensland) Act 2017

3.4.25.1 Overview

The purpose of the *Rail Safety National Law (Queensland) Act 2017* (QLD) (RSNL Act) is to provide for safe railway operations in Australia. One object of the Act is to establish the Office of the National Rail Safety Regulator (ONRSR) as the regulator in QLD. The Rail Safety National Law (RSNL) was created following an agreement of the Council of Australian Governments (COAG) to deliver a consistent approach to rail safety policy and regulations (and to remove the inconsistencies) between the previous state and territory rail safety regimes.

3.4.25.2 Relevance to the Project

The RSNL Act governs the safe operation of the rail system in QLD. The ongoing operation of the Project will need to comply with all areas of the RSNL Act, covering rail industry work practices and protocols for safe working in rail corridors and associated accreditation, signalling and control, the ongoing management of structures and civil works, interfaces with public roads and highways and other activities impacting on rail safety.

3.4.25.3 Project compliance

To fulfil the requirements under the RSNL Act, the Project has included a 'safety in design' process, which addresses the identification, development and implementation of hazard reduction measures achievable through its part in the overall design process. It identifies potential dangers across the Project lifecycle and provides a comprehensive framework to avoid or minimise risk and enhance safety, without unreasonably impacting on other design objectives.

3.4.26 Regional Planning Interests Act 2014

3.4.26.1 Overview

The *Regional Planning Interests Act 2014* (QLD) (RPI Act) regulates areas of regional interest (including strategic cropping areas) and requires that a resource activity or a regulated activity proposed to be located in an area of regional interest obtain a regional interests development approval (RIDA) following an assessment of the extent of the expected impact of the activity on the area. There are four areas of regional interest protected under the RPI Act being:

- ▶ Priority agricultural area
- ▶ Strategic cropping area
- ▶ Priority living area
- ▶ Strategic environmental area.

A RIDA may be required when a resource or regulated activity is proposed in an area of regional interest.

3.4.26.2 Relevance to the Project

The Project is not a resource activity nor a regulated activity under the RPI Act, and therefore the Act does not apply.

3.4.26.3 Project compliance

Not applicable—refer Section 3.4.26.2.

3.4.27 Soil Conservation Act 1986

3.4.27.1 Overview

The *Soil Conservation Act 1986* (QLD) (Soil Conservation Act) governs the conservation of soil resources and facilitates the implementation of soil conservation measures by landholders for the mitigation of soil erosion. The Soil Conservation Act regulates the approval of two types of soil conservation property plans to ensure the coordination of runoff to control erosion: property plans and project plans. The plans consist of a map and specifications for the soil conservation structures and practices necessary to control erosion. They may cover the whole of a property or part of it.

Approved property and project plans are binding on all present and future owners and the Crown. Both approved property plans and project plans can be modified to accommodate circumstances that differ from those applying at the time of approval. Plans may be amended, or their approval may be revoked. This involves similar procedures to those used in the initial approval process.

3.4.27.2 Relevance to the Project

There are no soil conservation plans approved under the Soil Conservation Act impacted by the disturbance footprint of the Project.

3.4.27.3 Project compliance

Not applicable—refer Section 3.4.27.2.

3.4.28 Stock Route Management Act 2002

3.4.28.1 Overview

The main purpose of the *Stock Route Management Act 2002* (QLD) (SRM Act) is to provide for the management of the stock route network in QLD.

Stock route area networks are primarily used by the pastoral industry for:

- ▶ An alternative to transporting stock by rail or road
- ▶ Pasture for emergency agistment
- ▶ Long-term grazing.

Stock routes can be a road that is declared to be a stock route or may be any route that has historically been used for walking stock.

The SRM Act provides that a person must not, without reasonable excuse, obstruct the movement of travelling stock on a stock route (Section 179), burn or remove pasture on a stock route (Section 180) and place things on a stock route network that may harm travelling stock (Section 181).

3.4.28.2 Relevance to the Project

The EIS investigation corridor for the Project does not traverse any known or mapped travelling stock routes.

3.4.28.3 Project compliance

While the EIS investigation corridor does not traverse any known or mapped stock routes, it is understood that there may be informal stock routes throughout the EIS investigation corridor used to transfer stock to various grazing paddocks and holding yards. Consultation is ongoing with landholders to identify impacts and any relevant requirements under the SRM Act, in relation to informal stock routes.

3.4.29 Strong and Sustainable Resources Communities Act 2017

3.4.29.1 Overview

The *Strong and Sustainable Resources Communities Act 2017* (SSRC Act) commenced on 30 March 2018.

The *Social Impact Assessment (SIA) Guideline* was developed by the Coordinator-General in accordance with Section 9(4) of the SSRC Act and was published in March 2018. It details what must be included in an SIA and covers the identification and assessment of social impacts, as well as their management and monitoring.

The SIA guideline is a statutory instrument for all projects identified as large resource projects under the SSRC Act. It is also a non-statutory guideline for non-resource projects subject to an EIS process under either the SDPWO Act or the EP Act.

3.4.29.2 Relevance to the Project

The Project is not a large resource project; therefore, the SIA Guideline is to be used as non-statutory guideline for the EIS. The Project is a linear infrastructure project for which 'potentially affected communities' include towns and rural areas in and near the EIS investigation corridor rather than 'nearby regional communities' within a 125 km radius as defined by the SSRC Act.

3.4.29.3 Project compliance

A SIA was prepared for the Project, which meets the requirements of the SIA Guideline, as referenced within the ToR. This is summarised in Chapter 16: Social and provided in detail in Appendix R: Social Impact Assessment Technical Report.

3.4.30 Transport Infrastructure Act 1994

3.4.30.1 Overview

The TI Act provides a framework for integrated planning and efficient management of transport infrastructure. The objectives of the TI Act are to allow the government to have a strategic overview of the provision and operation of all transport infrastructure.

As discussed in Section 3.4.21, development that is for 'government supported transport infrastructure' cannot be made assessable under a local government planning scheme. The definition of 'government supported transport infrastructure' under the Planning Act relies on the following terms that are defined under Schedule 6 of the TI Act:

- ▶ 'Transport infrastructure' includes air, busway, light rail, miscellaneous, public marine, rail or road transport infrastructure and transport infrastructure relating to ports, and other rail infrastructure and active transport infrastructure
- ▶ 'Rail transport infrastructure' means facilities necessary for operating a railway, including railway track and works built for the railway for example: cuttings, drainage works, excavations, land fill, track support earthworks; and any of the following things that are associated with the railway's operation: bridges, communication systems, machinery and other equipment, marshalling yards, notice boards, notice markers and signs, overhead electrical power supply systems, over-track structures, platforms, power and communication cables, service roads, signalling facilities and equipment, stations, survey stations, pegs and marks, train operation control facilities, tunnels, and under-track structures.

Under the TI Act, various authorisations are required where infrastructure or works are proposed within transport corridors, including:

- ▶ Written approval of the Chief Executive under Section 33 to carry out works on a State-controlled road, or to interfere with a State-controlled road or its operation
- ▶ Road corridor permit under Section 50 to construct, maintain, operate or conduct ancillary works and encroachments on a State-controlled road
- ▶ Written permission from the railway manager under Section 255 to interfere with a railway.

3.4.30.2 Relevance to the Project

The Project is 'government supported transport infrastructure' as discussed in Section 3.4.21.

The Project interfaces with State-controlled roads and has tie-ins to two existing railway lines: West Moreton line and Interstate lines.

Approvals under the TI Act are required for activities that will interfere with State-controlled roads or railways.

3.4.30.3 Project compliance

The Project predominately aligns with the SFRC, which has been previously gazetted under the TI Act as future railway land. Where necessary, it is expected that the existing gazetted SFRC corridor will be amended in accordance with the TI Act to reflect the Project rail corridor. Approvals under the TI Act will be obtained for the Project as required.

3.4.31 Transport Operations Road Use Management Act 1995

3.4.31.1 Overview

The *Transport Operations Road Use Management Act 1995* (Qld) (TORUM Act) provides for the effective and efficient management of road use in the State and vehicle use in a public place. The TORUM Act also provides for a scheme for managing the use of the State's roads. The scheme provides for the:

- ▶ Identification of vehicles, drivers and other road users, and the establishment of performance standards
- ▶ Establishment of rules for on road behaviour
- ▶ Monitoring of compliance with the TORUM Act, including by using alternative compliance schemes
- ▶ Management of non-performing vehicles, drivers and other road users
- ▶ Control of access to the road network, or parts of it, for vehicles, drivers and other road users
- ▶ Management of traffic to enhance safety and transport efficiency.

3.4.31.2 Relevance to the Project

The Project involves works within the road network that will be managed by traffic management plans.

3.4.31.3 Project compliance

Where works are required within the existing road network, traffic management plans will be prepared and implemented to control traffic and maintain the safety of traffic.

Refer Chapter 19: Traffic, Transport and Access for further information regarding traffic management during construction.

3.4.32 Transport Planning and Coordination Act 1994

3.4.32.1 Overview

The *Transport Planning and Coordination Act 1994* (Qld) (TPC Act) is the primary law relating to transport in QLD. The overall objective of the TPC Act is to improve the economic, trade and regional development performance of QLD and the quality of life of Queenslanders.

Under the TPC Act these objectives are achieved through:

- ▶ Development and delivery of a transport coordination plan to provide a framework for strategic planning and management of transport resources in QLD (currently the Transport Coordination Plan 2017–2027 (Transport Coordination Plan). The objectives of the Transport Coordination Plan focus on five key areas:
 - ▶ Customer experience and affordability
 - ▶ Community connectivity
 - ▶ Efficiency and productivity
 - ▶ Safety and security
 - ▶ Environment and sustainability.
- ▶ Enabling the chief executive to encourage increased integration between land use and transport
- ▶ Affording the chief executive powers including:
 - ▶ Authority to acquire, hold, dispose of or otherwise deal with land for the purposes of transport, for an incidental purpose, for the purpose of a transport associated development or for a combination of these purposes
 - ▶ Acquire land through resumption processes for the purpose of transport infrastructure, transport associated development or for an incidental purpose
 - ▶ For the purposes of the State Planning Policy, a State transport corridor and a future State transport corridor is defined as an active transport corridor and a future transport corridor under a guideline made pursuant to the TPC Act.

3.4.32.2 Relevance to the Project

The Project represents a significant element of transport infrastructure that will interact with QLD's existing transport network, specifically, existing rail, State-controlled roads and local government roads.

The following objectives of the Transport Coordination Plan are of relevance to the Project:

- ▶ Transport meets the needs of all Queenslanders, now and into the future
- ▶ Transport connects communities to employment and vital services
- ▶ Transport facilitates the efficient movement of people and freight to grow QLD's economy
- ▶ Transport is safe and secure for customers and goods
- ▶ Transport contributes to a cleaner, healthier and more liveable environment and is resilient to QLD's weather extremes.

3.4.32.3 Project compliance

The Project is consistent with the objectives of the Transport Coordination Plan as it will:

- ▶ Provide opportunities for economic benefit in regional communities
- ▶ Provide efficient and cost-competitive freight option when compared to road transportation
- ▶ Enable freight movements, currently reliant on road transportation, to be migrated to rail and in doing so improving the safety of the existing road network.

The benefits of the Inland Rail Program, and the Project are discussed in Chapter 2: Project Rationale.

3.4.33 Vegetation Management Act 1999

3.4.33.1 Overview

The VM Act regulates and manages the process and impacts of native vegetation clearing. The objectives of the VM Act include conservation of remnant regional ecosystems (REs), prevention of the loss of biodiversity, maintenance of ecological processes, and conservation of vegetation in areas of high nature conservation value, lands vulnerable to land degradation and the preservation of high-value regrowth areas.

Clearing of any relevant remnant or regulated regrowth vegetation will constitute operational works under Schedule 10 of the Planning Regulation that will require development approval, unless an exemption applies.

Under Schedule 21, Part 1, Item 14 of the Planning Regulation, the following clearing work is exempt clearing work for which a development permit is not required:

(14) Clearing vegetation for the construction or maintenance of infrastructure stated in Schedule 5, if—

- a) the clearing is on a designated premises; or*
- b) the infrastructure is government supported transport infrastructure*

where:

- ▶ *'infrastructure' as stated in Schedule 5 (of the Planning Regulation) includes (under Part 1) 'transport infrastructure, including transport infrastructure stated in Schedule 2 of the Act under definition development infrastructure'*
- ▶ *'transport infrastructure' as defined under Schedule 24 of the Planning Regulation, includes:*
 - f) other rail infrastructure*
 - i) rail transport infrastructure.*

Schedule 6 of the TI Act defines these terms:

- ▶ *'other rail infrastructure' under Schedule 6 of the TI Act means (a) 'freight centres or depots; or (b) maintenance depots; or (c) office buildings or housing; or (d) rolling stock or other vehicles that operate on a railway; or (e) workshops; or (f) any railway track, works or other thing that is part of anything mentioned in paragraphs (a) to (e).*
 - ▶ *'rail transport infrastructure' under Schedule 6 of the TI Act means 'facilities necessary for operating a railway, including—*
 - ▶ *railway track and works built for the railway, including for example: cuttings, drainage works, excavations, land fill, track support earthworks; and*
 - ▶ *any of the following things that are associated with the railway's operation: bridges; communication systems; machinery and other equipment; marshalling yards; noticeboards, notice markers and signs; overhead electrical power supply systems; over-track structures; platforms; power and communication cables; service roads; signalling facilities and equipment; stations; survey stations, pegs and marks; train operation control facilities; tunnels; under-track structures; and*
 - ▶ *vehicle parking and set down facilities for intending passengers for a railway that are controlled or owned by a railway manager or the chief executive; and*
 - ▶ *pedestrian facilities, including footpath paving for the railway that are controlled or owned by a railway manager or the chief executive.*
- but does not include other rail infrastructure.'*

- ▶ Development infrastructure (under Schedule 2 of the Planning Act) includes:

- a) land or works, or both land and works, for*
 - ii) transport infrastructure, including roads, vehicle lay-bys, traffic control devices, dedicated public transport corridors, public parking facilities predominantly serving a local area, cycleways, pathways and ferry terminals.*

Government supported transport infrastructure means (under Schedule 24 of the Planning Regulation) infrastructure for transport that is for public use and is funded, wholly or partly, by the State or Commonwealth, or provided by a person, other than under a development approval or infrastructure agreement, on conditions that are agreed to by the government; and are intended to support the commercial viability of the infrastructure.

3.4.33.2 Relevance to the Project

The disturbance footprint extends across a range of vegetation categories and communities mapped under the VM Act and, therefore, clearing of vegetation regulated under the VM Act will occur as a result of the Project. Vegetation clearing for the Project is considered to be eligible for exemption under Schedule 21 of the Planning Regulation given the Project is for transport infrastructure (rail transport infrastructure) that is government supported transport infrastructure (for a public use and funded partly by the Australian Government).

Although clearing of native vegetation for the Project, as government supported transport infrastructure, is exempt development for Schedule 21 of the Planning Regulation, the VM Act is relevant to the flora and fauna assessment to the extent that it provides for classification of REs as endangered, vulnerable, or least concern. Chapter 11: Flora and Fauna provides further detail regarding relevant vegetation categories and communities.

There is the potential for development works outside of the disturbance footprint to be required to support construction of the Project (e.g. borrow sites used to source construction material). Works of this nature may constitute assessable development. Depending on the type of vegetation, the underlying land use zoning and land tenure, and the clearing purpose, operational work that is vegetation clearing for these areas may be either exempt or assessable development for which a development permit for operational works is required.

3.4.33.3 Project compliance

The Project is considered eligible for exemption for clearing works under Schedule 21 of the Planning Regulation. The applicability of this exemption will, however, be subject to confirmation of the Project disturbance footprint and the timing/staging of planned clearing works proposed and the tenure of the land. In the event that portions of clearing works for the Project are not eligible for exemption, the necessary approvals will be obtained where required, noting that this would be the responsibility of the respective contractor or site owner.

3.4.34 Waste Reduction and Recycling Act 2011

3.4.34.1 Overview

The *Waste Reduction and Recycling Act 2011* (Qld) (WRR Act) promotes waste avoidance and reduction, resource recovery and efficiency actions. The WRR Act provides a strategic framework for managing wastes through a waste and resource management hierarchy, as listed below in the preferred order to be considered:

- a) Avoid or reduce
- b) Reuse
- c) Recycle
- d) Recover energy
- e) Treat
- f) Dispose.

Under the WRR Act, the management of priority wastes are of strategic importance, due to the high disposal impacts, social impacts, potential resource savings and business opportunities associated in their recovery. This piece of legislation also enables the QLD Government to work with industry and the community in identifying the most appropriate management options for priority wastes. The management of waste activities associated with the Project will largely be underpinned by the WRR Act hierarchy.

The Waste Reduction and Recycling Regulation 2011 sets out the mechanisms to achieve the objectives of the WRR Act. The QLD Government has developed a waste management and resource recovery strategy to reduce the amount of waste being generated and to grow the resource recovery and recycling industry. This is underpinned by a waste levy, which commenced on 1 July 2019. The waste levy is payable by landfill operators to the QLD Government based on the amount of waste disposed of to landfills within the waste levy zone (which includes the Ipswich City Council (ICC), Logan City Council (LCC), and Scenic Rim Regional Council (SRCC) local government areas (LGAs). It is up to individual landfill operators to make a business decision on if and how they pass the levy through to their customers.

3.4.34.2 Relevance to the Project

The construction phase of the Project will generate the majority of the Project's waste. This waste can be broadly classified as:

- ▶ Green waste from vegetation clearing
- ▶ Construction and demolition waste (including spoil)
- ▶ General waste (municipal waste) from construction compounds
- ▶ Regulated waste (required to be managed in accordance with the EP Regulation)
- ▶ Recyclables, which are waste streams that can be reconditioned and reprocessed for reuse.

Where waste is not reused or recycled onsite, waste generated through the Project will need to be disposed of offsite at appropriately licensed facilities. There are a number of landfills in ICC, LCC and SRRC LGAs that have the potential to accept waste from the Project.

3.4.34.3 Project compliance

The management of waste and spoil associated with the Project will be underpinned by the WRR Act waste and resource management hierarchy, as listed above. Where practical, waste that cannot be avoided will be reused or recycled in the first instance. Further, any spoil material that cannot be reused due to unsuitability of composition, not meeting construction specifications for the required application or if identified to be contaminated will be treated to allow reuse and avoid disposal, where feasible and reasonable.

There is also an opportunity for excess spoil to be placed and appropriately stabilised within the disturbance footprint in areas such as the western tunnel portal.

The sustainability commitments embedded into the *Inland Rail Environment and Sustainability Policy* (ARTC, 2018a) include encouraging sustainability throughout the value chain for goods and services used to build and operate Inland Rail. Chapter 21: Waste and Resource Management and Chapter 23: Draft Outline Environmental Management Plan, together with Appendix V: Spoil Management Strategy provides further information regarding Project waste streams, waste and spoil management.

3.4.35 Water Act 2000

3.4.35.1 Overview

The Water Act provides a framework for the:

- ▶ Sustainable management of QLD's water resources and quarry material by establishing a system for the:
 - ▶ Planning, allocation and use of water
 - ▶ Allocation of quarry material and riverine protection
- ▶ Sustainable and secure supply and demand management for the South-East Queensland (SEQ) region and other designated regions
- ▶ The management of impacts on underground water caused by the exercise of underground water rights by the resource sector
- ▶ The effective operation of water authorities.

The Water Act is supported by the Water Regulation 2016 and various water plans for defined geographic regions.

Under the Water Act, water plans may set limitations on the taking or interfering of water in the plan area and prescribe the requirements for applications for granting water entitlements or other authorisations. The Water Act also holds provisions for water use plans to be prepared and implemented to regulate water use in a defined area where there is a risk of land and water degradation.

Under the Water Act, the taking or interfering with the flow of water on, under or adjoining land (including surface water, artesian water, and in some instances overland flow where regulated through a water plan), requires a Water Licence under the Water Act as evidence of entitlement to the resource and a development permit for operational work under the Planning Act where constructing or installing certain types of works.

The DNRME maintains '...exemption requirements for construction authorities for the taking of water without a water entitlement (WSS/2013/666)'. These exemption requirements may only be used by a constructing authority defined under Schedule 2 of the AL Act and includes State government departments and local governments. At present these guidelines do not directly apply to ARTC and a water entitlement would be required for the taking of water from a watercourse.

Riverine protection permits are required to excavate, or place fill in a watercourse, lake or spring. In certain circumstances exemptions apply where the works are undertaken in accordance with the *Riverine protection permit exemption requirements* (WSS/2013/726 Version 2.01) guideline.

3.4.35.2 Relevance to the Project

The Project is likely to involve:

- ▶ Taking or interfering with the flow of water
 - ▶ During construction of the Project, water will be required for dust control, site compaction and reinstatement. A number of potential water sources have been investigated, including extraction of groundwater or surface water, private bores and watercourses
 - ▶ An approximately 260 m long overland flow diversion is proposed at the western portal of the tunnel through the Teviot Range
- ▶ Excavation or placing fill in a watercourse, lake or spring.

ARTC is an approved entity for the purposes of the riverine protection permit exemption requirements.

3.4.35.3 Project compliance

ARTC or the construction contractor will obtain a water entitlement, water licences and/or development permits for watercourse diversion for the Project to enable the take of water for use during construction. Further information on water sources is provided in Chapter 6: Project Description.

Where necessary, ARTC will obtain a development permit for operational work for taking or interfering with water.

Where works are proposed within a watercourse, these activities will be in accordance with the riverine protection permit exemption requirements. A riverine protection permit will be required in instances where the exemption requirements cannot be achieved.

3.4.36 Work Health and Safety Act 2011

3.4.36.1 Overview

The *Work Health and Safety Act 2011* (Qld) (WHS Act) provides a framework and general duties for the protection, safety and welfare of workers in QLD while they are at work. Under the WHS Act, designers must ensure, so far as is reasonably practicable, that structures are designed to be without risks to the health and safety of persons.

3.4.36.2 Relevance to the Project

There are two specific requirements for designers to provide information under the WHS Act.

1. Under Section 22(4) and 22(5) of the WHS Act, the designer must provide information to anyone who is issued with the design:
 - ▶ Indicating the purpose for which the structure is designed
 - ▶ The results of any testing and analysis undertaken
 - ▶ Any conditions necessary to ensure that the designer has designed the structure to be without risk to health and safety when it is used as a workplace during its lifecycle.

Current relevant information must also be provided to people who use, construct, maintain or demolish the structure on request.

2. Under Section 295 of the Work Health and Safety Regulation 2011, the designer of a structure or any part of a structure that is to be constructed is required to provide the person conducting a business or undertaking who commissioned the design, a written safety report outlining potential hazards relating to the design that may pose a hazard to people carrying out construction work.

3.4.36.3 Project compliance

The Project has incorporated risk identification and assessment practices throughout the design development phase to date and ARTC have a strong commitment to implementing and maintaining appropriate safety practices throughout operations. Chapter 20: Hazard and Risk provides detail discussion regarding safety in design, and hazard and risk identification undertaken to date, including a risk register and matrix of hazards, likelihood, consequence and mitigations. Project design documentation complies with the requirements of the WHS Act.

3.5 Local government plans and policy

In addition to the Commonwealth and State legislative requirements discussed in Sections 3.2, 3.3 and 3.4, the Project has the potential to trigger approval requirements under local government legislation.

3.5.1 Local laws

The *Local Government Act 2009* (Qld) empowers and provides responsibilities to local governments to make and enforce any local law that is necessary or convenient that reflects community needs and ensures the good rule and governance of the LGA. These laws generally relate to the protection of amenity or other values important to communities including local government-controlled roads, carrying out works on a road or interfering with a road or its operation, control of local pests declared by councils, noise, light, waste management, vegetation, parks and fencing.

The Project is within the LGAs of the ICC, LCC and the SRRC. The Project will adhere to and be carried out in accordance with relevant local laws where applicable.

3.5.2 Planning schemes

Local government planning schemes are the principal documents guiding growth and development in each council area. Planning schemes are prepared by councils after community consultation and are approved by the Planning Minister. These statutory instruments ensure QLD grows and develops sustainably. The Project's temporary disturbance footprint is located on land covered by three different planning schemes listed below:

- ▶ 2006 Consolidated Ipswich Planning Scheme
- ▶ Scenic Rim Planning Scheme 2020
- ▶ Logan Planning Scheme 2015.

Further details on these individual planning schemes, including the zones traversed by the EIS investigation corridor within each of the LGAs and their relevance to the Project are outlined in Chapter 8: Land Use and Tenure.

In accordance with Schedule 6, Part 5, Section 26(2) of the Planning Regulation, development for the construction of transport infrastructure, where the infrastructure is government supported transport infrastructure, cannot be made assessable development under the relevant local categorising instruments. Inland Rail is considered to be government supported infrastructure. Accordingly, the provisions of these local government planning schemes do not apply to the Project. Notwithstanding this, the zoning intent for these areas as determined by the planning schemes have been taken into consideration when determining impacts of the Project on future land uses in the area.

3.6 Post-Environmental Impact Statement approvals

A summary of the potential post EIS approvals is provided within Table 3.4. These are subject to review and change during the detailed design process.

In addition to the approvals identified in Table 3.4, a range of additional permits, licences and/or agreements will be required. To address these requirements, ARTC has commenced and will continue to undertake consultation with infrastructure owners and utility providers regarding asset interface requirements such as works within and traversing infrastructure easements.

TABLE 3.4: POST ENVIRONMENTAL IMPACT STATEMENT PROJECT APPROVALS

Legislation	Administering authority	Development action/trigger	Approval	Potential exemption	Project timing	Indicative approval processing timeframe
State						
ACH Act	DATSIP	Undertaking any excavation, construction or other activities that may cause harm to Aboriginal cultural heritage Undertaking a project for which an EIS is required	Cultural Heritage Management Plan in consultation with the relevant Registered Aboriginal Parties	-	Prior to commencement of any excavation, construction or other activities that may cause harm to Aboriginal cultural heritage	Completed CHMPs (#CLH0710009) have been developed, negotiated and executed for the Project.
Biosecurity Act	DAF (Biosecurity Queensland)	Moving a fire ant carrier from a property within a fire ant biosecurity zone to another property within the same or different zone	Biosecurity Instrument Permit (Fire Ants)	-	Prior to commencement of relevant works	20 business days
Building Act/ Planning Act	Relevant local government or private certifier	Undertaking building works	Development approval for building works	Building work is assessable development, unless it is accepted development under the Planning Regulation or the Building Act	Prior to commencement of building works	2 months
Electricity Act	Energex or Powerlink	Connection of new electrical supply or an increase in connected load of an existing supply	Approval for connection of supply/load increase	-	Prior to commencement of relevant works	10 business days
Explosives Act	DNRME (Queensland Explosives Inspectorate)	Use, possession, storage or transport of explosives	Licence to store, transport or use explosives	-	Prior to transport, storage or use of explosives	20 business days for routine applications, non-routine applications that require inspection will require a longer timeframe

Legislation	Administering authority	Development action/trigger	Approval	Potential exemption	Project timing	Indicative approval processing timeframe
EO Act	DES	Undertaking a Prescribed Activity for which there will be a significant residual impact on one or more Prescribed Environmental Matters	Provision of offsets in accordance with the Environmental Offsets Policy	-	The Proponent is required to submit a Notice of Election as notification along with details of the elected offset arrangement This can occur before, during or after the authority for the relevant Prescribed Activity has been granted	Once the Notice of Election is received, the Administering Authority has 40 business days to consider the notice.
EP Act	DES	Undertaking an ERA prescribed under Schedule 2 of the EP Regulation. The Project is considered likely to trigger: <ul style="list-style-type: none"> ▶ ERA 8—Chemical storage ▶ ERA 16—Extractive activities ▶ ERA 41—Cement manufacturing ▶ ERA 57—Regulated waste transport ▶ ERA 64—Water treatment 	Environmental Authority Registered Suitable Operator	-	Prior to commencement of relevant construction works	5–8 months (excluding requests for further information)
		Disposal of contaminated soil from sites listed on the EMR/CLR	Disposal permit	-	Prior to removal or disposal of contaminated land	20 business days
Fisheries Act/ Planning Act	DAF	Constructing or raising waterway barrier works (temporary and/or permanent waterway barrier works)	Development permit for Operational Works that are Waterway Barrier Works (temporary and/or permanent)	A development permit is not required where: <ul style="list-style-type: none"> ▶ Works are determined to be 'works which are not waterway barrier works' or ▶ Works can comply with the relevant self-assessable code for waterway barrier works. 	Prior to the relevant construction works commencing	3–6 months (excluding requests for further information)
Forestry Act/ Land Act	DAF	Interfering with forest products on State land	Allocation of quarry material	-	Prior to construction works	2–3 months

Legislation	Administering authority	Development action/trigger	Approval	Potential exemption	Project timing	Indicative approval processing timeframe
Land Act	DNRME (SLAM)	Temporary or permanent road closure	Temporary or permanent road closure	-	Prior to construction works	No statutory timeframes, can be lengthy and early engagement with DNRME is required
NC Act	DES	Clearing of least concern species within a mapped Flora Survey Trigger Area	Exempt clearing notification	-	Prior to vegetation clearing works	10 business days
		Clearing of EVNT species or clearing of non-EVNT species where impact to EVNT species is likely to occur	Clearing Permit	-	Prior to vegetation clearing works	40 business days
		Works involving the tampering of an animal breeding place	Species Management Program (Low Risk or High Risk)	-	Prior to any works that impact on animal breeding places	2–3 months
		Removal and relocation of protected wildlife	Damage Mitigation Permit	-	Prior to undertaking any relevant works	2–3 months
		Spotter catcher endorsement	Rehabilitation Permit	-	Prior to undertaking any relevant works	2–3 months
		Taking, using, keeping or interfering with protected animals or native wildlife	Wildlife Movement Permit	-	Prior to undertaking any relevant works	2–3 months
Planning Act	Queensland Treasury/relevant local government	Undertaking assessable development under a relevant local government planning scheme	-	Exemption where development is for transport infrastructure under Schedule 6, Part 5, Item 26— development for infrastructure activities (transport infrastructure)	-	-
	Queensland Treasury	Taking or interfering with water from a watercourse, lake or spring	Development permit for operational works (taking or interfering with water)	-	Prior to the relevant construction works commencing	2–3 months

Legislation	Administering authority	Development action/trigger	Approval	Potential exemption	Project timing	Indicative approval processing timeframe
Planning Act/ EP Act	DES	Undertaking an ERA that is a Concurrence ERA under Schedule 2 of the EP Regulation. The Project is considered likely to trigger the following Concurrence ERAs/thresholds: <ul style="list-style-type: none"> ▶ ERA 8—Chemical storage ▶ ERA 16—Extractive activities (2(b),2(c)) ▶ ERA 41—Cement manufacturing ▶ ERA 57—Regulated waste transport ▶ ERA 64—Water treatment 	Development permit for a material change of use for an ERA	-	Prior to the relevant activities being carried out	5–8 months (excluding requests for information)
SDPWO Act	Coordinator-General	Development in the Bromelton SDA that is made assessable under the Bromelton SDA development scheme	Approval for development in an SDA	-	Prior to the commencement of works/activities regulated by the Bromelton SDA development scheme	5–10 months
TI Act	DTMR	Interfering with a railway	Written permission from the railway manager to interfere with the railway under Section 255 of the TI Act	-	Prior to commencement of the relevant works	20 business days
		Constructing, maintaining, operating or conducting ancillary works and encroachments on a State-controlled road	Road corridor permit under Section 50 of the TI Act	Exemptions are available if the works are: <ul style="list-style-type: none"> ▶ In accordance with the requirements specified by the chief executive of DTMR by gazette notice ▶ Done as required by a contract entered into with the chief executive of DTMR 	Prior to the commencement of the relevant works	20 business days
		Carrying out road works on a State-controlled road or interfering with a State-controlled road or its operation	Written approval of the chief executive of DTMR under Section 33 of the TI Act	-	Prior to commencement of works or interfering with a State-controlled road	20 business days

Legislation	Administering authority	Development action/trigger	Approval	Potential exemption	Project timing	Indicative approval processing timeframe
VM Act	DNRME	Works involving the clearing of Regulated Vegetation	Development permit for operational works for vegetation clearing	Exempt clearing works under Schedule 21, Part 1, Item 14 (infrastructure that is government supported transport infrastructure) of the Planning Regulation	Prior to vegetation clearing works	2–3 months
Water Act	DNRME	Undertaking works in a watercourse, lake or spring	Riverine protection permit	Exemption where ARTC (as an approved entity) carry out the works in accordance with DNRME's <i>Riverine Protection Permit Exemption Requirements</i>	Prior to commencement of the relevant works	1–2 months
		Works that involve the taking or interfering with water (authorises entitlement to the resource)	Water authorisation (permit) to authorise the taking of water which has a reasonably foreseeable end date Water authorisation (licence)—taking or interfering with water from a watercourse, lake or spring	-	Prior to commencement of construction	1–2 months
Local						
Local Government Act	Relevant local government	Undertaking works to which a local law applies	Local law approval , if it is determined that a local law applies as specified in a local law	Pursuant to the relevant local law	Prior to the commencement of the relevant works	Various
Plumbing and Drainage Act	Relevant local government	Undertaking plumbing and drainage works	Plumbing and drainage works approval	A permit is not required where works are notifiable work, minor work or unregulated work	Prior to the commencement of the relevant works	Various