

ELECTRICITY AMENDMENT BILL 1996

EXPLANATORY NOTE

GENERAL OUTLINE

Objectives of the Legislation

This legislation clarifies the status of electricity transmission entities in their requirement to comply with planning schemes in force under the *Local Government (Planning and Environment) Act 1990* and section 29 of the *State Development and Public Works Organisation Act 1971*.

Reasons for Bill

This Bill addresses a number of difficulties experienced by the Queensland Electricity Transmission Corporation, trading as Powerlink Queensland, since it was corporatised on 1 January 1995 and lost its Crown immunity from the Local Government (Planning and Environment) Act and any local government town planning schemes in force by virtue of that Act. This is an undesirable situation because it results in:

- the duplication of processes already undertaken by the Queensland Electricity Transmission Corporation under section 29 of the State Development and Public Works Organisation Act; and
- some doubt being cast over the legal status of transmission lines built prior to the corporatisation of the Queensland Electricity Transmission Corporation because the *Electricity Act 1994* did not remedy the absence of approvals required under the Local Government (Planning and Environment) Act prior to 1 January 1995.

Estimated Cost for Government Implementation

Nil.

Consultation

The Departments of Premier and Cabinet and Local Government and Planning have been consulted and support the Bill.

Notes on Provisions

Section 1 sets out the short title of the Act.

Section 2 indicates that the Act will amend the *Electricity Act 1994*.

Section 3 inserts a new Chapter 4, Part 4, Division 4A titled Exemptions from planning schemes for particular transmission entity operating works.

Section 111A defines a number of terms.

The term “affected land” is defined for the purposes of this division to mean land

- on which a transmission entity’s operating works are or will be on and which are identified on maps held by the Department of Mines and Energy;
- identified in a written notice from the Minister for Mines and Energy to a local government under section 111B(1); or
- identified in section 111D as the Chalumbin to Woree transmission line.

The term “LGPE Act” means the Local Government (Planning and Environment) Act.

The term “permissible use” is defined in section 1.4 of the Local Government (Planning and Environment) Act and means a use of premises which may only be undertaken in a planning scheme with the approval of the local government.

The term “planning instrument” for operating works means

- any agreement made between the relevant local government and any person holding an interest in the affected land; and
- any condition imposed by the local government for the use of the affected land.

The term “planning scheme” means any planning scheme in force under

the Local Government (Planning and Environment) Act.

The term “planning scheme maps” means any map used in a planning scheme and may include zoning, and regulatory maps, and any maps included in a strategic plan and development control plan.

The term “relevant planning scheme” means a planning scheme which includes land that is, or is proposed to be, affected land in relation to a transmission entity’s operating works, or proposed operating works.

Section 111B states that a planning scheme does not apply to the construction, operation and maintenance of a transmission entity’s operating works (for example high voltage transmission lines), or the use of affected land by the transmission entity in connection with the operating works, if the Minister for Mines and Energy:

- is satisfied a transmission entity has complied with the policies and administrative arrangements set down under section 29 of the State Development and Public Works Organisation Act and taken into account the major environmental effects the works are likely to have; and
- has given written notice to the local government for the area the operating works will be in, of the transmission entity’s compliance with the policies and administrative arrangements set down under section 29 of the State Development and Public Works Organisation Act.

In providing written notice to local governments under subsection (1), the Minister for Mines and Energy must

- ensure the local government receives the notice prior to the transmission entity building or using the operating works cited in the notice; and
- state the following
 - that the Minister is satisfied the transmission entity has taken into account the major environmental effects the works are likely to have and in so doing has complied with the policies and administrative arrangements set down under section 29 of the State Development and Public Works Organisation Act;
 - provide a description of the land on which the transmission

entity's operating works will be situated, including any relevant map reference;

- the name of the transmission entity;
- that the land will be used for the transmission entity's operating works; and
- that sections 111B, 111E, 111F and 111G apply to the operating works.

Section 111C clarifies that a planning scheme does not apply, and never applied, to the building or use of a transmission entity's operating works, or the use of affected land by the transmission entity in connection with the operating works, if the building or use of such works commenced prior to the commencement of the *Electricity Amendment Act 1996*.

Section 111D stipulates that a relevant planning scheme does not apply to the building or use of transmission operating works, or the use of affected land for the operating works, on the land between Chalumbin and Woree as identified by the relevant maps and documents held by the Department of Mines and Energy.

Section 111E provides that if the affected land is, or is to be included in a planning scheme, and the planning scheme does not apply to operating works because of this division, then the planning scheme or a planning instrument does not apply to the affected land to the extent that the planning scheme or instrument is inconsistent with the transmission entity's building or use of the operating works.

Section 111F provides that if a transmission entity has operating works in a local government's area, then:

- the local government may note where affected land is being used for a transmission entity's operating works on the maps of any relevant planning scheme; and
- when a local government prepares a new planning scheme, it must show where in its planning scheme and planning scheme maps the affected land is being used for a transmission entity's operating works.

If a local government receives a written notice from the Minister for Mines and Energy under section 111B(1), the local government must note the existence of the notice in any relevant planning scheme.

To remove any doubt, this section stipulates that a note to the planning scheme is not an amendment to a planning scheme pursuant to the definition of “amend” in the Local Government (Planning and Environment) Act.

Section 111G ensures that if an application for rezoning of land, permissible use of premises or subdivision of land is lodged under the Local Government (Planning and Environment) Act for land which includes affected land, then the local government must

- give the Minister for Mines and Energy written notice of the application;
- not consider the application until the Minister has had the opportunity to comment on the application, or 28 days after the Minister is given the notice; and
- take into account any comments made by the Minister on the application when considering the application.

Consistency with the Fundamental Legislative Principles

Section 111C is to apply retrospectively and may breach a Fundamental Legislative Principle. However, the retrospective application of this section is considered necessary to protect the transmission grid and guarantee reliability of supply throughout the State. This section will only apply to existing transmission operating works and to those operating works currently under construction. From the date of commencement of the *Electricity Amendment Act 1996* all future transmission operating works will become subject to the new provisions.