

Energy Roadmap Amendment Bill 2025

Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019* (HR Act), I, the Honourable David Janetzki MP, Treasurer, Minister for Energy and Minister for Home Ownership make this statement of compatibility with respect to the Energy Roadmap Amendment Bill 2025 (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill gives effect to the Queensland Government's commitment to repeal the renewable energy targets established under the *Energy (Renewable Transformation and Jobs) Act 2024* (Energy Act) and align the Energy Act with the government's objective of delivering Queenslanders an energy system that is affordable, reliable and sustainable.

The Bill will also abolish the Queensland Energy System Advisory Board (Board), Energy Industry Council (Council) and Queensland Renewable Energy Jobs Advocate (Advocate).

The Bill also reframes the energy planning approach, establishing the 'strategic infrastructure path objectives', including an objective to reduce the greenhouse gas emissions from electricity generation in Queensland. Amendments are also made to the Priority Transmission Investment (PTI) and Renewable Energy Zone (REZ) frameworks.

Lastly, the Bill establishes a new Part to support and facilitate the delivery of the CopperString project.

Human Rights Issues

Human rights relevant to the Bill (Part 2, division 2 and 3, *Human Rights Act 2019*)

I have considered each of the rights protected by Part 2 of the HR Act. In my opinion, the human rights under the HR Act that are engaged by the Bill are the right to life (section 16), the right to freedom of movement and to choose where to live (section 19), the right of equal access to public office (section 23(2)(b)), the right to property (section 24), the right to privacy and home (section 25(a)), the right of children to protection in their best interests (section 26(2)), cultural rights – generally (section 27), cultural rights of Aboriginal peoples and Torres Strait Islander peoples (section 28) and rights in criminal proceedings (section 32). Some of the rights are limited, but in a way that is reasonable and demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

Human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13, *Human Rights Act 2019*)

Repeal of the renewable energy targets (Part 2, Energy Act)

Clause 9 to be inserted into the Energy Act repeals Part 2, which provides for renewable energy targets in Queensland.

The renewable energy targets promote several human rights (right to life; right to freedom of movement and to choose where to live; property rights; right to privacy and home; right to children to protection in their best interests; cultural rights generally; and cultural rights of Aboriginal peoples and Torres Strait Islander peoples) through providing a mechanism to limit the impacts of climate change.

Repealing the renewable energy targets could potentially be considered to impact the enjoyment of those rights.

Section 27 of the HR Act recognises cultural rights, and section 28 is specific to the cultural rights of Aboriginal peoples and Torres Strait Islander peoples. This includes their right to maintain and strengthen their cultural heritage and traditional knowledge and the rights to strengthen their material and economic relationship with lands, territories, waters, coastal seas and other resources with which they have a connection under Aboriginal tradition or Island custom. This relationship with Country is under threat, due to the range of climate impacts affecting communities across Queensland.

The right to life, the right of young people to enjoy their human rights without discrimination, the right of children to protection in their best interests, the right to property, the right to privacy and home, in addition to the aforementioned cultural rights, may also potentially be impacted by climate change.¹

Removal of the renewable energy targets from legislation will not amount to a denial of any of the rights which were promoted by the inclusion of the targets in law. Action to address the impacts of climate change will continue to be driven under the amended Act, and does not inhibit action outside of legislation.

Importantly, emissions reduction targets remain enshrined in the *Clean Economy Jobs Act 2024*.

As detailed below, even if removal of the renewable energy targets amounted to the aforementioned rights, that limit would be justified. Accordingly, I will presume a limit on the rights in sections 16, 19, 24, 25(a), 26(2), 27 and 28 for the purposes of this statement.

Such a limit on these human rights is reasonable and justified under section 13 of the HR Act for the reasons outlined below.

(a) the nature of the right

¹ *Waratah Coal Pty Ltd v Youth Verdict Ltd & Ors* [No 6] [2022] QLC 21.

What is at stake in human rights terms is the ability of persons living in Queensland to live their lives free from the impacts of climate change.

- (b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The Government committed to repealing the renewable energy targets and refocusing policy and legislation deliver an affordable, reliable and sustainable energy system for Queensland. This includes reducing gas emissions from the generation of electricity and facilitating new through this Bill and the Energy Roadmap.

- (c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Repealing the renewable energy targets will achieve a purpose of the Bill.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There is no alternative way to fulfil the commitment to repeal the renewable energy targets as amending legislation is required. Accordingly, there is no less restrictive alternative.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

Repealing the renewable energy targets will not prevent government action on climate change, noting the targets would not have reduced emissions without other actions. Queensland emission reduction targets remain enshrined in the *Clean Economy Jobs Act 2024*. The amended Energy Act also supports emissions reduction from the generation of electricity which will contribute to achievement of emissions reduction and net zero by 2050

On balance, the amendments, do not constitute a limitation on human rights.

Accordingly, repealing the targets is compatible with human rights.

Repeal of the sunset clause for the PTI framework (Part 5, Energy Act)

Part 5 of the Energy Act contains the PTI Framework. The framework includes a sunset provision of 31 December 2035. This provision is removed by the Bill (clause 29), ensuring the State retains the mechanism to deliver critical transmission infrastructure.

The PTI framework, particularly PTI declaration under amended section 26 and the head of power under section 28 to make cost recovery regulations, engages and, in certain circumstances, limits rights under the HR Act. These rights include the freedom to where to live, the right to property the right to non-interference with privacy, family and home, cultural rights (including the cultural rights of Aboriginal peoples and Torres Strait Islander peoples).

A decision to declare and construct a PTI under amended section 26 may impact the freedom to choose where to live, as local residents may need to move as a result of PTI works. It may also impact the right to property and the right to non-interference, wherein the visual amenity

of a neighbourhood is changed, and construction works create noise that disturb the quiet enjoyment of one's home.

Cultural rights, specifically the cultural rights of Aboriginal peoples and Torres Strait Islander peoples, may also be subject to limitation. PTI infrastructure placement may interfere with their distinctive spiritual, material and economic relationship with the land, should infrastructure be built on land with which Aboriginal peoples or Torres Strait Islander peoples have a connection under their tradition or custom.

Although the removal of the PTI framework's sunset provision is not expected to change the nature or scope of the rights engaged or limited by the framework, it will extend the period during which those same rights are engaged or limited. I consider the repeal of the sunset provision is compatible with human rights on the basis that any engagement with or limitation of rights is reasonable and justified under section 13 of the HR Act for the following reasons.

(a) the nature of the right

Removal of the PTI framework's sunset provision extends the period over which the framework will engage and limit human rights. What is at stake in aforementioned human rights over the longer-term.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation is to enable the PTI framework to continue operating beyond its current expiry of 31 December 2035.

The continuation of the PTI framework is important to delivering an affordable, reliable and sustainable energy system. This provides significant benefits to Queensland while reducing the impacts of climate change. These are proper purposes consistent with a free and democratic society based on human dignity, equality, and freedom.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Repealing the sunset provision will help achieve the purposes of allowing the PTI framework to continue operating beyond 2035. This ensures the State retains the legislative mechanisms to identify, construct, and recover costs for critical transmission infrastructure.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive and reasonably available ways to achieve the purpose of removing the PTI framework's sunset provision. The planning and delivery of transmission projects in the long term can only be enabled through legislative amendment.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The purpose of allowing the PTI framework to continue beyond 31 December 2035 is to support the delivery of critical transmission infrastructure over the longer term, which is necessary to provide an affordable, reliable and sustainable energy system.

While the continued operation of the PTI framework may impact the human rights of Queenslanders, and particularly the cultural rights of Aboriginal peoples and Torres Strait Islander peoples, safeguards exist to avoid and minimise that impact as much as possible. This includes a requirement, when implementing the PTI framework, to comply with any relevant cultural, planning, and environmental requirements under the *Environmental Protection Act 1994*, *Aboriginal Cultural Heritage Act 2003*, the *Torres Strait Islander Cultural Heritage Act 2003*, and the *Native Title Act 1993* (Cth). Additionally, downstream decision makers will be required to act in accordance with the *Public Sector Act 2022* and section 58 of the HR Act.

Ultimately, these potential impacts on human rights are outweighed by the importance of efficient and coordinated development of transmission over a longer time horizon to deliver an affordable and reliable energy system that contributes to achievement of net zero by 2050. This will, in turn, protect and conserve land and sacred sites for the future. For these reasons, any limitation on human rights arising from the removal of the PTI framework's sunset provision is reasonable and justifiable in accordance with the HR Act.

Removal of office holders (Parts 8, 9 and 10, Energy Act)

Clauses 58 and 59 will remove members of the Queensland Energy System Advisory Board (Board) and the Energy Industry Council (Council) from office. The office of the Queensland Renewable Energy Jobs Advocate (Advocate) will also be abolished (see clause 60).

The office of the Advocate is currently vacant. As such, I consider nil human rights are engaged in relation to the dissolution of the office of the Advocate.

The amendments provide that no compensation is payable for the removal of members from office by virtue of changes to the legislation.

Removing office holders has the potential to limit the right of equal access to public office (section 23(2)(b)), the right to property (section 24), and the right to privacy (section 25(a)).

Section 23(2)(b) protects a right to have access, on general terms of equality, to the public service and public office. Removing a person from public office such as chairpersons and members of the Board and Council will engage this right.

Section 24(2) provides that a person must not be arbitrarily deprived of their property. For the purposes of the HR Act, "property" can be taken to include remuneration and other payments that remunerated officeholders have a legitimate expectation of receiving. Whether that property is deprived arbitrarily will depend on whether the entitlements are removed in a way that is capricious, unjust or unreasonable in the sense of being disproportionate to a legitimate aim sought. If an interference is proportionate under section 13 of the HR Act, it will not be arbitrary. Accordingly, whether any deprivation of property is arbitrary will be addressed below when considering the factors which allow for the limitation of rights under section 13.

Section 25(a) protects unlawful or arbitrary interference with a person's privacy. In the context of human rights, a person's private life extends to a sphere of autonomy which can include

aspects of a person's work. However, this right will only be limited if the interference is unlawful or arbitrary, in the sense of being disproportionate to a legitimate aim sought.

Having contemplated section 13 of the HR Act, I consider that any limit on these human rights is reasonable and justified and provide my reasons below.

(a) the nature of the right

Office holders have enjoyed the right of access to public office. Abolishment of the Board and Council constitutes a revocation of this right to public office, thereby placing the livelihoods of office holders at stake.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The Queensland Government has committed to abolishing the governance bodies established under the Energy Act, due to their administrative burden and as functions of the nature performed by the office holders can be performed outside of legislation.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The removal of the Board and Council members from office will ensure that the limited resources of government can be effectively preserved for other matters.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There is no alternative or less restrictive way to preserve the resources of the Queensland Government while allowing the Board and Council members to retain their positions or providing compensation. Accordingly, there is no less restrictive alternative available to achieve the purpose of the Bill.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The impact on the Board and Council members will be minimal. While no compensation is available to former office holders, this does not limit or otherwise affect a person's right to a benefit or entitlement that will have accrued before the commencement of the Bill.

It is considered that any impact on the human rights of the officials is outweighed by the need to deliver administrative resource savings.

Because any interference with property and privacy would be proportionate, it would not be arbitrary. That means that the rights to property and privacy in sections 24 and 25 of the HR Act would be engaged but not limited. Any limit on the right of equal access to public office in section 23(2)(b) is justified.

As such, removing the members of the Board and Council from office is compatible with human rights.

Financial matters and cost recovery for the hub framework (Part 6, division 6, Energy Act)

Part 6, division 6, of the Energy Act provides a framework for the recovery of defined establishment and operational costs associated with a hub transmission network incurred by a transmission network service provider. In the first instance these costs are to be recovered from participants in the hub. However, the responsible Ministers may make a declaration under section 71 to enable a transmission network service provider to recover costs associated with the provision of the hub transmission network, through charges for prescribed transmission services. Clauses 47 and 49 amend the cost recovery provisions to broaden the definition for the types of amounts for which a declaration under section 71 can be made. In the event a declaration is made, these charges will ultimately be paid by consumers, which could engage their right to property in section 24 of the HR Act.

Although amending the types of amounts recoverable under this framework, the amendments do not impact the existing safeguards under the Energy Act, which ensure the framework is not arbitrary. The amendments also do not alter the requirement for the fees and charges to be imposed on a cost-recovery basis from participants in the hub or that the responsible Ministers are satisfied of certain things before making a declaration under section 71, including that the transmission network service provider acted reasonably and prudently and that there is no other way for the transmission network service provider to reasonably recover the costs. These safeguards ensure that the charges are reasonable and not arbitrary.

As the potential impact on the property of consumers is not arbitrary, the right to property is engaged but not limited by the proposed amendments to the relevant financial and cost recovery provisions.

The making of a declaration to recover costs is also subordinate legislation (under new section 71(5)) which will need to be accompanied by a human rights certificate under section 41 of the HR Act, ensuring that human rights will be considered for any exercise of the power.

Repeal of REZ assessments (Part 6, division 4, Energy Act)

Clause 41 repeals the division relating to the hub design body undertaking a REZ assessment of the suitability of an area to accommodate the development and operation of the transmission network and generation. This is replaced by the requirement at clause 35 which requires the responsible Ministers, when declaring a hub, to have regard to the impacts that the development and operation of a hub will have on communities. This gives effect to considering the impact of potential development in a more streamlined way. As such, the amendments do not engage any human rights under the HR Act.

CopperString Project (New Part 8, Energy Act)

The CopperString project is a legislative framework (the CopperString framework) that will facilitate and support construction of CopperString infrastructure, comprising high-voltage overhead electricity transmission lines and associated infrastructure connecting Mount Isa to the national transmission grid near Woodstock (south of Townsville).

The CopperString framework engages and, in certain circumstances, limits rights under the HR Act. These rights include: the freedom to choose where to live; the right to property; the right

to non-interference with privacy, family and home; Cultural rights – generally; Cultural rights – Aboriginal peoples and Torres Strait Islander peoples; and rights in criminal proceedings. How the CopperString framework engages with each right is contemplated in detail below.

New Part 8 introduces a new framework to facilitate and support the delivery of the CopperString project, including a regulation making power to facilitate economic regulation of the project.

CopperString Infrastructure Development – cultural rights, freedom of movement and the right to privacy (New Part 8, Energy Act)

Infrastructure development as facilitated by economic regulatory arrangements under new Part 8 may impact cultural rights and the freedom to choose where to live, as local residents could potentially need to, or choose to, move as a result of works related to the construction of a stage of the CopperString. It may also impact the right to non-interference with the home, wherein the visual amenity of a neighbourhood is changed, and construction works create noise that disturb the quiet enjoyment of one's home.

These human rights have internal limitations. The right to privacy will only be limited where the interference with privacy, family or home is unlawful or arbitrary. 'Arbitrary', within the context of human rights, refers to conduct that is capricious, unpredictable or unjust, and also refers to interferences that are unreasonable in the sense of not being proportionate to a legitimate aim sought. An interference that is proportionate under section 13 of the HR Act, it will not be arbitrary. Accordingly, whether the interference with privacy is arbitrary will be addressed below when considering the factors in section 13.

Given the size of the project area, the Aboriginal peoples and Torres Strait Islander peoples whose cultural rights will be affected may include, but are not necessarily limited to the:

- Bindal People, who have a pending application for native title determination;²
- Birriah People, who have an existing native title determination;³
- Jangga People, who have an existing native title determination⁴ and a second application pending;⁵
- Gudjala People, who have multiple native title determination,⁶ with a further application pending;⁷
- Yirendali People, who have a registered core country claim. An Indigenous Land Use Agreement was agreed upon in negotiation in the vicinity of Hughenden;
- Wanamara People, who have a registered core country claim;

² *Eddie Smallwood & Ors on behalf of the Bindal People #2 v State of Queensland & Ors* (Federal Court No. QUD503/2016).

³ *Miller on behalf of the Birriah People v State of Queensland* [2016] FCA 271; *Miller on behalf of the Birriah People v State of Queensland (No 2)* [2016] FCA 1434.

⁴ *McLennan on behalf of the Jangga People v State of Queensland* [2012] FCA 1082.

⁵ *Colin McLennan & Ors on behalf of the Jangga People #2 v State Minister for the State of Queensland* (Federal Court No. QUD387/2018).

⁶ *Dodd on behalf of the Gudjala People Core Country Claim #1 v State of Queensland (No 3)* [2014] FCA 231; *Dodd on behalf of the Gudjala People Core Country Claim #1 v State of Queensland* [2016] FCA 1505; *Dodd on behalf of the Gudjala People Core Country Claim #2 v State of Queensland* [2016] FCA 1506.

⁷ *Alice Fisher on behalf of the Gudjala People v State Minister for the State of Queensland & Ors* (Federal Court No. QUD121/2023).

- Mitakoodi and Mayi Peoples, who have an existing native title determination⁸ and a second application pending⁹; and
- Kalkadoon People, who have an existing native title determination.¹⁰

I note all of the aforementioned groups of Traditional Owners have distinct cultural rights under section 28 of the HR Act.

For impacts on land, territories, waters, coastal seas or other resources, the cultural rights of Aboriginal peoples and Torres Strait Islander peoples will only be engaged if they have a connection to that land or other resource under Aboriginal tradition or Island custom (definitions of ‘Aboriginal tradition’ and ‘Island custom’ in schedule 1 of the *Acts Interpretation Act 1954*). Further, section 28(2) of the HR Act states that the rights enumerated in that subsection must not be ‘denied’. Denial is a higher threshold for limitation of section 28(2) compared to other rights.

The Bill does not override, nor does it displace existing statutory processes for land acquisition and development. These provide some protections for property owners living within the project area, providing safeguards to avoid and minimise disruption associated with infrastructure development to the extent possible. Regarding the impact on cultural rights, with the inherently diverse cultural rights of Aboriginal peoples and Torres Strait Islander peoples being maintained at a local level across Queensland, and the final project scope for CopperString to be determined, it is not feasible to state concretely whether the operation of the CopperString framework will amount to a limitation or denial of cultural rights under section 28 of the HR Act in each circumstance.

In consideration of the above, this statement of compatibility will proceed on the basis there is a possibility a declaration of a stage for CopperString could result in impacts on a particular area. However, it is also noted that nothing within the CopperString framework expressly compels the construction of infrastructure. Rather, it provides a framework that facilitates construction through providing a mechanism for economic regulation of the declared proponent for the declared stage.

It will be assumed for the purposes of the analysis that Traditional Owner groups in the vicinity of the project do have a relevant connection, and construction and operation of infrastructure as facilitated by the amendments to the Energy Act impact amounts to a denial of their cultural rights.

As detailed below, even if the insertion of new Part 8 amounted to a limit on cultural rights, the right to freedom of movement and to choose where to live, as well as the right to privacy and home, that limit would be justified. Accordingly, I will presume a limit on the rights in sections 19, 25(a), 27 and 28, for the purposes of this statement.

Such a limit on these human rights is reasonable and justified under section 13 of the HR Act for the reasons outlined below.

⁸ *Kum Sing on behalf of the Mitakoodi and Mayi People #5 v State of Queensland (No. 3)* [2024] FCA 935.

⁹ *Tanya Kum Sing & Ors on behalf of the Mitakoodi and Mayi People #5 and the State of Queensland & Ors* (Federal Court No. QUD556/2015).

¹⁰ *Doyle on behalf of the Kalkadoon People #4 v State of Queensland (No. 3)* [2011] FCA 1466.

(a) the nature of the right

The CopperString framework is intended to facilitate though economic regulatory arrangements the staged development of transmission infrastructure based on defined scopes of work for each stage. However, as the amendments seek to facilitate the progression of a pre-determined project, there is a potential for the amendments to limit the right to non-interference in the home and the freedom of individuals to choose where to live in parts of North and North West Queensland.

Should infrastructure be built on land with which Aboriginal peoples or Torres Strait Islander peoples have a connection under their tradition or custom, there is a risk of interference with their distinctive spiritual, material and economic relationship with the land. The ability to enjoy and exercise cultural rights may be subject to limitation should Traditional Owners be unable to access relevant parts of the project area. They may also be affected by changes to the physical landscape as a result of project development.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation is to facilitate the construction and operation of the CopperString infrastructure through economic regulatory arrangements. This will support economic development in North and North West Queensland by enabling access to the national electricity grid, grid reliability and sustainability by unlocking access to high quality wind resources for energy generation in the Hughenden area.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Limitation of the rights of persons affected by the delivery of the CopperString project will help achieve construction of the CopperString infrastructure and connection of the North and North West Queensland to the national electricity grid, and described benefits, as facilitated by economic regulatory arrangements introduced by amendments to the Act.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive and reasonably available ways to achieve the purpose of the providing economic regulatory arrangements for CopperString as facilitated through the Bill. The State facilitating construction and operation of CopperString through economic regulation can only be enabled through legislative amendment.

I note that Powerlink has undertaken structured engagement with Traditional Owner groups along the anticipated corridor in respect to the project. Further, where relevant, State and Commonwealth legislation protecting Aboriginal cultural heritage and Torres Strait Islander cultural heritage, and the *Native Title Act 1993* (Cth) applies. In considering the availability of less restrictive alternatives, it is also relevant that the potential limits on human rights are already narrowly tailored. In particular:

- before a Declaration for a stage is made, the responsible Ministers must seek advice on the efficient costs associated with the project, as well as any other matter the Ministers deem relevant; and
- as public sector entities, where the department or departmental representatives are undertaking decision-making processes, they must comply with section 58 of the HR Act.

Accordingly, I do not consider there is any other less restrictive and reasonably available way to achieve the purpose of the proposed amendments.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The CopperString infrastructure is designed to support North and North West Queensland. By facilitating delivery of and operation of the infrastructure, new Part 8 supports realisation of economic benefits to the regions, and grid reliability and sustainability.

Overall, land use decisions can profoundly affect the cultural rights of Aboriginal peoples and Torres Strait Islander peoples identified in section 28(2) of the HR Act, in particular their connection to country and their ability to maintain and develop kinship ties and to use their languages.

I consider the potential interference with property and privacy is proportionate and not arbitrary, and consider new Part 8 of the Bill does not limit human rights. Where there may be a limitation of cultural rights and the freedom to choose where to live as a consequence of facilitating the delivery of the CopperString infrastructure, these limitations are proportionate in consideration of the need to connect the North and North West Queensland to the national electricity grid, to realise economic, reliability and sustainability benefits. For these reasons, the limitation is justified and accordingly, the proposed clauses of the Bill in relation to CopperString are compatible with human rights.

Financial matters associated with declared stage of the CopperString project (new Part 8, division 3)

New Part 8, division 3 introduces a regulation-making power concerning financial matters that facilitate economic regulation of a declared stage of CopperString.

It facilitates the recovery of regulated revenue associated with the construction and operation of CopperString infrastructure through transmission determinations that apply to the declared stage. To achieve this, the power includes the ability for a regulation to determine financial matters relating to a declared stage for a transmission determination relating to revenue recoverable from consumers.

In enacting this regulation-making power, the right to property under section 24 of the HR Act is indirectly engaged and potentially limited once a regulation is made, as it may limit consumers' access to additional money. However, the right to property in section 24 of the HR Act includes internal limitations and is only restricted if the property is deprived arbitrarily. I noted above that in a human rights context, 'arbitrary' refers to conduct that is capricious,

unpredictable or unjust, and also refers to interferences which are unreasonable in the sense of not being proportionate to a legitimate aim sought.

The impact on property in this case is not arbitrary for a number of reasons:

- the responsible Ministers must seek advice and identify the efficient costs (in the proponent's circumstances) of constructing and operating the identified stage as part of the stage's declaration. This ensures that consumers are not required to pay for inefficient costs;
- the regulation-making power explicitly requires that the proponent's transmission determination aligns with the requirements prescribed in the regulation. This ensures that the process of recovering costs from consumers is transparent and predictable. Additionally, a regulation can only be made if it is necessary and appropriate to achieve the purposes of the Part under new section 93(b), placing further limits on its application and ensuring it serves a legitimate aim;
- recovery of efficient costs associated with prescribed transmission services is consistent with the approach taken under the national electricity laws; and
- the regulation-making power serves a legitimate aim by enabling a regulation to recover costs for a project that will support grid reliability and sustainability.

It is also noted that any regulation made under this provision must be accompanied by a human rights certificate under section 41 of the HR Act, ensuring that human rights considerations are addressed for any exercise of the power in new section 99.

As the potential impact on the property of consumers is not arbitrary, the right to property is engaged but not limited by the regulation-making power in new section 99 for financial matters associated with economic regulation of CopperString.

Information gathering for the CopperString project (Part 8, division 4)

Clause 58 inserts new section 101, which confers a power for the responsible Ministers to obtain information from a person and to disclose this information to another person.

The new section is subject to a reasonable excuse exception, meaning that the right to be presumed innocent in section 32(1) of the HR Act is not limited.

Additionally, the provision explicitly provides that a reasonable excuse includes that complying might tend to incriminate the person. Therefore, the provision does not limit the right to not incriminate oneself in section 32(2)(k) of the HR Act.

Through requiring persons to provide information, these powers to obtain information engage freedom of expression in section 21 of the HR Act which may include 'the right to say nothing or the right not to say certain things'¹¹; and the right to privacy in section 25(a) of the HR Act, which is a right to be left alone (the right to privacy will only be limited if the interference is unlawful or arbitrary, which it cannot be if it is proportionate under section 13 of the HR Act – whether the interference with privacy is arbitrary will be addressed below when considering the factors in section 13).

¹¹ *Slaight Communications Inc v Davidson* [1989] 1 SCR 1038, 1080.

The limits on these human rights are reasonable and justified under section 13 of the HR Act for the reasons below.

(a) the nature of the right

What is at stake in human rights terms is the ability to decline to provide information and to keep private matters private.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose is to ensure that the Minister and Treasurer have access to information required to exercise a function under the Bill.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Requiring people to provide relevant information will help to achieve that purpose.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The limit on human rights is already narrowly tailored. The requirement to provide information is subject to a reasonable excuse exception, which includes that complying might tend to incriminate the person. The use of information by the Minister or Treasurer obtained under the new section are also subject to confidentiality requirements under section 173 subject to specific use exceptions, as is any appropriately qualified person who receives the advice under new section 97.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The need to ensure the Minister and Treasurer have the information they need to exercise a function under the Bill outweighs the minor impacts on the freedom not to express oneself and privacy. The right to privacy is not limited by the new section 101 as the interference with privacy is proportionate and not arbitrary. The limit on the freedom of expression is proportionate and therefore justified. Accordingly, the new sections are compatible with human rights.

Conclusion

In my opinion, the Energy Roadmap Amendment Bill 2025 is compatible with human rights under the *Human Rights Act 2019* because it limits a human right only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

THE HONOURABLE DAVID JANETZKI MP

TREASURER
MINISTER FOR ENERGY AND MINISTER FOR HOME OWNERSHIP

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