



Native Title Newsletter

New Renewable Energy Social Impact and Community Benefit Rules for Queensland: What Native Title and Indigenous Landowners Need to Know

On 18 July 2025, Queensland introduced a new community benefit system under the *Planning Act 2016* (Qld) through the *Planning (Social Impact and Community Benefit) and Other Legislation Amendment Act 2025*. These changes affect how approvals are granted for large renewable energy projects such as wind farms and solar farms (1 megawatt or more).

The new rules make it harder for proponents to obtain quick approvals. They must now prepare a Social Impact Assessment (SIA) and negotiate a Community Benefit Agreement (CBA) with the local council before lodging a development application.

Slower and More Involved Approval Process

Proponents can no longer skip straight to a planning application for major wind or solar projects. The SIA process is required for most major projects requiring the

development of an Environmental Impact Statement. Their development is usually a minimum 6-12 months and requires proponents to assess both the positive and negative impacts of the proposed project on the local community. This process includes considering the interests of native title holders and Indigenous landowners, with First Nations peoples recognised as distinct stakeholders.

Formal Opportunity for Cultural Consultation

The SIA will include a baseline analysis of community characteristics, such as culture and values, history, well-being, land and property ownership, and the use of natural resources in the vicinity of the project area. In practice, this means proponents should consider Aboriginal cultural heritage and the ways in which native title and Indigenous landowners use land and the potential impacts on those values and uses before a project can proceed to development application.

Influencing Community Benefit Agreements

Where First Nations people are identified as relevant stakeholders in the negotiation of community benefits arising from the SIA process, they should be

meaningfully involved in the CBA negotiation process. While the CBA is formally negotiated between the proponent and the local council and not directly with native title and Indigenous landowners, the extent of involvement often depends on the quality of the SIA engagement. Importantly, proponents are not restricted from, nor discouraged in, entering into private agreements with First Nations peoples. This can be either through a CBA mechanism or via separate private arrangements.

Exceptions

The recent amendments allow a proponent to request that the State Government waive the requirement for a SIA or CBA. In assessing such a request, the State will consider the location, nature and scale of the project, along with any matters considered to be relevant. These requests are expected to be granted only in limited circumstances in the context of major wind or solar projects but give the State flexibility to exempt some projects from the new requirements.

Key Takeaway

If a proponent seeks to build a commercial wind or solar farm on or near your land, they are now required to complete an SIA, followed by a CBA. The approval process steps have been expanded creating opportunities for Indigenous rights, values, and benefits to be embedded into the project from the outset.

Queensland Human Rights Act Used in Fight to Protect Springs

In February 2024, the Nagana Yarrbayn Wangan and Jagalingou Cultural Custodians Ltd (the **Custodians**) brought a case in the Supreme Court of Queensland. They asked the court to review the government's response to concerns about damage to the Doongmabulla Springs and failure to intervene using Queensland's *Human Rights Act 2019* (**HR Act**).

The Doongmabulla Springs, located near the Carmichael Coal Mine in central Queensland, are both environmentally unique and of great spiritual and cultural importance to Wangan and Jagalingou people. The Custodians argued that the mine was already causing, or likely to cause, serious harm to the Springs by breaching environmental approval conditions. They said the Queensland government should have used its powers to prevent that harm.

Back in late 2023, the Custodians wrote to the

Department of Environment, Science and Innovation asking it to act. The Department acknowledged that the Springs have exceptional environmental and cultural value, but responded that it did not believe open-cut mining posed a threat.

When the case reached the court, the State government tried to have it thrown out.

The court ruled that:

- the government's refusal to act was not the type of "decision" that can be challenged under the *Judicial Review Act 1991* (**JR Act**); and
- however, the Custodians' cultural rights are recognised under the HR Act. While the court did not agree that the Department's inaction directly breached those rights, it did allow the case to continue under the *Civil Proceedings Act 2011*.

This means the Custodians can still argue that the Department acted unlawfully by failing to use its powers to protect the Springs.

Why this Matters

The case is significant because it may set an important precedent. It is one of the first times cultural rights under Queensland's HR Act have been used to challenge government inaction in the context of mining and environmental protection.

If the Custodians are successful, it could strengthen the ability of Traditional Owners to use human rights law to protect Country and culture from environmental harm.

What's Next

The case will now move forward to a full hearing where the court will consider whether the Department's failure to act was unlawful. In the meantime, the Doongmabulla Springs remain at the centre of a national debate about how to balance resource development with cultural rights and environmental protection.

P&E Law's Submissions to the ALRC Review of the Future Acts Regime

The Australian Law Reform Commission (**ALRC**) is reviewing the Future Acts Regime under the *Native Title Act 1993*. P&E Law recently made submissions supporting reform, highlighting that the regime is no longer fit for purpose and needs to better balance the interests of native title holders, governments and industry.

We called for stronger funding and support for Registered Native Title Bodies Corporate, clearer standards for good faith negotiations, and the introduction of an impact-based model that recognises the cultural and environmental significance of activities like water extraction. We also backed reforms to improve transparency, such as a public register of future act notices.

Our position is that reform must ensure fairness and sustainability for native title holders while providing greater certainty for proponents and governments.

Read our full submission here:

[ALRC – Review of the Future Acts Regime: Submissions](#)

First Nations Clean Energy Symposium 2025

In August, we had the privilege of attending the third annual *First Nations Clean Energy Symposium*, held on beautiful Kabi Kabi Country and co-hosted by the First Nations Clean Energy Network and the Indigenous Land and Sea Corporation.

The Symposium brought together more than 450 participants, including First Nations leaders, Traditional Owners, government representatives, community organisations, and industry partners across a wide range of topics – such as Power Purchase Agreements, decarbonisation, workforce development, and equity ownership in renewable energy projects. One message was clear: First Nations communities are not only participants in Australia's clean energy transition, but key drivers of it.

We were inspired to hear from communities leading innovative renewable energy projects in some of the country's most remote regions, often in the face of natural disasters and other challenges. It was equally powerful to see emerging leaders speak with passion about their Country, culture, and community.

Several themes resonated throughout the Symposium:

- **Engagement must start early** – First Nations people are essential stakeholders in project planning and development.
- **Cultural heritage is central** – protecting Aboriginal cultural heritage must be at the heart of every project.
- **Reform is needed** – legislative change is urgently required to ensure culturally appropriate engagement and to address the energy poverty still faced by many First Nations communities.

These are issues we regularly hear from our First Nations clients. With the global shift to renewable energy and Australia's journey toward net zero emissions, gatherings like the Symposium play a vital role in ensuring First Nations voices are not only heard but are leading the way.

We thank the First Nations Clean Energy Network and the Indigenous Land and Sea Corporation for their leadership in hosting such an important and inspiring event. We look forward to seeing the Symposium continue to grow, providing even greater opportunities for First Nations communities - including our clients - to collaborate, share knowledge, and shape the future of clean energy.

Carbon Farming and Biodiversity Projects

As focus continues to sharpen around energy generation and meeting carbon emission reduction targets, opportunities exist for First Nations communities to be involved in projects that have beneficial outcomes for communities, the environment and which also generate valuable "credit units" or certificates which can be traded on regulated Australian markets.

Anna Vella has recently joined us as a director at P&E Law and has over 25 years of experience in planning and environmental law. While based in Brisbane, Anna was raised on Yidinji Country, in the area of the Bindabarra Yidi and Gulgibarra Yidi, where her family continues to farm and manage land, and which she frequently visits and still calls "home".

For a number of years, Anna has advised the Queensland government and project proponents about opportunities and processes to undertake "carbon farming" projects in Queensland. Carbon farming is the undertaking of agricultural activities or changing land management practices to:

- reduce carbon emissions and absorb carbon dioxide from the atmosphere: by undertaking activities such as land reforestation, seasonal fire management burning and increasing carbon stored in soil in accordance with accepted methodologies;
- create "carbon sinks" and improve environmental outcomes: by having, for example, new areas of vegetation and forestation, healthier soils and more robust coastal ecosystems; and

- where a project is registered with the Clean Energy Regulator and credited with carbon emission reduction outcomes, generate “Australian Carbon Credit Units” (ACCU) which are valuable commodities which can be traded and sold on a regulated market (similar to the share market) to a third party who is required to offset their carbon emissions.

The size and success of a project in actually removing carbon dioxide from the atmosphere (or avoiding the carbon dioxide being emitted in the first place) will determine the number of ACCUs which are generated. The value of each ACCU is determined by the trading market and of course influenced by demand and supply.

Other benefits of undertaking carbon farming projects include:

- enabling landholders to generate new, regular income streams through the carbon farming project;
- increasing employment opportunities through active, on-ground management; and

- using the knowledge of First Nations people to combine land management understanding and science with modern technology to create carbon offsets and new economic and investment opportunities.

In addition to ACCU generating projects, the federal government has created the “Nature Repair Market”, which enables people to undertake registered projects which improve biodiversity outcomes and generate certificates that can be traded on a voluntary national market. These projects can be undertaken on land or waters, or both.

This new market creates opportunities for landholders, First Nations people and organisations and investors to participate in projects that have benefits similar to carbon farming projects.

If you are interested in exploring carbon farming or nature repair project opportunities, please don't hesitate in contacting Anna.

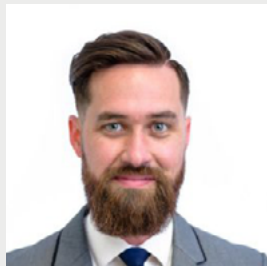
Contributors were Olivia, Anna, Jared, David and Matt.

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If you have any questions, please do not hesitate to contact our Native Title team:



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