



COMMONWEALTH OF AUSTRALIA

STATEMENT OF REASONS

**Agreement between the Commonwealth of Australia
and the Northern Territory of Australia under section 45 of the
Environment Protection and Biodiversity Conservation Act 1999 (Cwth)
relating to environmental assessment**

I, Sussan Ley, Minister for the Environment, provide the following reasons for my decision to enter into a bilateral agreement (**Agreement**) with the Northern Territory of Australia (**NTA**) under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cwth) (**EPBC Act**).

Legislation

Section 45 of the EPBC Act provides:

Making bilateral agreement

- (1) On behalf of the Commonwealth, the Minister may enter into a bilateral agreement.

Note 1: A bilateral agreement can detail the level of Commonwealth accreditation of State practices, procedures, processes, systems, management plans and other approaches to environmental protection.

Note 2: Subdivision B sets out some prerequisites for entering into bilateral agreements.

*What is a **bilateral agreement**?*

- (2) A **bilateral agreement** is a written agreement between the Commonwealth and a State or a self-governing Territory that:
- (a) provides for one or more of the following:
 - (i) protecting the environment;
 - (ii) promoting the conservation and ecologically sustainable use of natural resources;
 - (iii) ensuring an efficient, timely and effective process for environmental assessment and approval of actions;

- (iv) minimising duplication in the environmental assessment and approval process through Commonwealth accreditation of the processes of the State or Territory (or vice versa); and

- (b) is expressed to be a bilateral agreement.

Publishing notice of intention to enter into agreement

- (3) As soon as practicable after starting the process of developing a draft bilateral agreement with a State or self-governing Territory, the Minister must publish, in accordance with the regulations (if any), notice of his or her intention to develop a draft bilateral agreement with the State or Territory.

Publishing bilateral agreements and related material

- (4) As soon as practicable after entering into a bilateral agreement, the Minister must publish in accordance with the regulations:
 - (a) the agreement; and
 - (b) a statement of the Minister's reasons for entering into the agreement; and
 - (c) a report on the comments (if any) received on the draft of the agreement published under Subdivision B.

Section 47 of the EPBC Act provides:

Declaration of actions that do not need further assessment

- (1) A bilateral agreement may declare that actions in a class of actions identified wholly or partly by reference to the fact that they have been assessed in a specified manner need not be assessed under Part 8.

Note: A declaration described in subsection (1) can accredit practices, procedures, systems of the State or self-governing Territory for environmental assessment.

Prerequisite to declaration

- (2) The Minister may enter into a bilateral agreement declaring that actions assessed in a specified manner need not be assessed under Part 8 only if he or she is satisfied that assessment of an action in the specified manner will include assessment of the impacts the action:

- (a) has or will have; or

- (b) is likely to have;

on each matter protected by a provision of Part 3.

Assessment approaches that may be accredited

- (3) The manner of assessment of actions that may be specified in a bilateral agreement between the Commonwealth and a State or Territory for the purposes of subsection (1) includes:
- (a) assessment by any person under a law of the State or Territory; and
 - (b) assessment by any person under an agreement or other instrument made under a law of the State or Territory; and
 - (c) assessment by any person in accordance with criteria specified in an instrument agreed by the parties to the bilateral agreement.

This does not limit subsection (1).

Report on actions that do not need further assessment

- (4) If a bilateral agreement has (or could have) the effect that an action need not be assessed under Part 8 but the action must still be approved under Part 9, the agreement must provide for the Minister to receive a report including, or accompanied by, enough information about the relevant impacts of the action to let the Minister make an informed decision whether or not to approve under Part 9 (for the purposes of each controlling provision) the taking of the action.

Section 48 of the EPBC Act provides:

- (1) A bilateral agreement may include:
- (a) provisions for State accreditation of Commonwealth processes and decisions; and
 - (b) other provisions for achieving the object of this Part; and
 - (c) provisions for the provision of information by one party to the agreement to the other party; and
 - (d) provisions for the publication of information relating to the agreement; and
 - (e) provisions relating to the operation of the whole agreement or particular provisions of the agreement, such as:
 - (i) provisions for the commencement of all or part of the agreement; or
 - (ii) provisions for auditing, monitoring and reporting on the operation and effectiveness of all or part of the agreement; or
 - (iii) provisions for review of all or part of the agreement; or
 - (iv) provisions for rescission of all or part of the agreement; or
 - (v) provisions for expiry of the agreement; and

- (f) provisions varying or revoking another bilateral agreement between the same parties; and
- (g) a provision dealing with a matter that another section of this Act permits a bilateral agreement to deal with.

Consistency with Act and regulations

- (2) A provision of a bilateral agreement has no effect for the purposes of this Act to the extent that it is inconsistent with this Act or the regulations. A provision of a bilateral agreement is not inconsistent with this Act or the regulations if it is possible to comply with both the provision on the one hand and the Act or regulations on the other hand.

Relationship with sections 46 and 47

- (3) Subsection (1) does not limit sections 46 and 47.

Section 48A of the EPBC Act relevantly provides:

Application

- (1) A bilateral agreement with a State or self-governing Territory including a declaration that is described in section 46 or 47 and covers actions described in subsection (2) or (3) does not have effect for the purposes of this Act unless the agreement also includes the undertaking required by subsection (2) or (3) (as appropriate).

Agreements including declarations about assessment

- (3) A bilateral agreement including a declaration described in section 47 must include an undertaking by the State or Territory to ensure that the environmental impacts that the following actions covered by the declaration have, will have or are likely to have (other than the relevant impacts of those actions) will be assessed to the greatest extent practicable:
 - (a) actions taken in the State or Territory by a constitutional corporation;
 - (b) actions taken in the State or Territory by a person for the purposes of trade or commerce between Australia and another country, between 2 States, between a State and a Territory or between 2 Territories;
 - (c) actions that are taken in the State or Territory and are actions whose regulation is appropriate and adapted to give effect to Australia's obligations under an agreement with one or more other countries;
 - (d) actions taken in the Territory (if applicable).

Auditing

- (4) A bilateral agreement does not have effect for the purposes of this Act unless it includes a provision recognising that, under the *Auditor-General Act 1997*, the

Auditor-General may audit the operations of the Commonwealth public sector (as defined in section 18 of that Act) relating to the bilateral agreement.

Section 49 of the EPBC Act relevantly provides:

- (1) A provision of a bilateral agreement does not have any effect in relation to an action in a Commonwealth area or an action by the Commonwealth or a Commonwealth agency unless the agreement expressly provides otherwise.
- (2) A provision of a bilateral agreement does not have any effect in relation to an action in Booderee National Park, Kakadu National Park or Uluru Kata Tjuta National Park.

Section 49A of the EPBC Act provides:

The Minister may enter into a bilateral agreement only if he or she:

- (a) has published in accordance with the regulations:
 - (i) a draft of the agreement; and
 - (ii) an invitation for any person to give the Minister comments on the draft within a specified period of at least 28 days after the latest day on which the draft or invitation was published; and
- (b) has taken into account the comments (if any) received in response to the invitation; and
- (c) has considered the role and interests of indigenous peoples in promoting the conservation and ecologically sustainable use of natural resources in the context of the proposed agreement, taking into account Australia's relevant obligations under the Biodiversity Convention.

Section 50 of the EPBC Act provides:

The Minister may enter into a bilateral agreement only if the Minister is satisfied that the agreement:

- (a) accords with the objects of this Act; and
- (b) meets the requirements (if any) prescribed by the regulations.

Section 51 of the EPBC Act relevantly provides:

- (1) The Minister may enter into a bilateral agreement containing a provision relating to a declared World Heritage property only if:
 - (a) the Minister is satisfied that the provision is not inconsistent with Australia's obligations under the World Heritage Convention; and
 - (b) the Minister is satisfied that the agreement will promote the management of the property in accordance with the Australian World Heritage management Principles; and

- (c) the provision meets the requirements (if any) prescribed by the regulations.

Section 51A of the EPBC Act relevantly provides:

- (1) The Minister may enter into a bilateral agreement containing a provision relating to a National Heritage place only if:
 - (a) the Minister is satisfied that the agreement will promote the management of the place in accordance with the National Heritage management Principles; and
 - (b) the provision meets the requirements (if any) prescribed by the regulations.

Section 52 of the EPBC Act relevantly provides:

- (1) The Minister may enter into a bilateral agreement containing a provision relating to a declared Ramsar wetland only if:
 - (a) the Minister is satisfied that the provision is not inconsistent with Australia's obligations under the Ramsar Convention; and
 - (b) the Minister is satisfied that the agreement will promote the management of the wetland in accordance with the Australian Ramsar management Principles; and
 - (c) the provision meets the requirements (if any) prescribed by the regulations.

Section 53 of the EPBC Act relevantly provides:

- (1) The Minister may enter into a bilateral agreement containing a provision relating to a listed threatened species or a listed threatened ecological community only if:
 - (a) the Minister is satisfied that the provision is not inconsistent with Australia's obligations under:
 - (i) the Biodiversity Convention; or
 - (ii) the Apia Convention; or
 - (iii) CITES; and
 - (b) the Minister is satisfied that the agreement will promote the survival and/or enhance the conservation status of each species or community to which the provision relates; and
 - (c) the Minister is satisfied that the provision is not inconsistent with any recovery plan for the species or community or a threat abatement plan; and
 - (ca) the Minister has had regard to any approved conservation advice for the species or community; and
 - (d) the provision meets the requirements (if any) prescribed by the regulations.

Section 54 of the EPBC Act relevantly provides:

- (1) The Minister may enter into a bilateral agreement containing a provision relating to a listed migratory species only if:
 - (a) the Minister is satisfied that the provision is not inconsistent with the Commonwealth's obligations under whichever of the following conventions or agreements because of which the species is listed:
 - (i) the Bonn Convention;
 - (ii) CAMBA;
 - (iii) JAMBA;
 - (iv) an international agreement approved under subsection 209(4); and
 - (b) the Minister is satisfied that the agreement will promote the survival and/or enhance the conservation status of each species to which the provision relates; and
 - (c) the provision meets the requirements (if any) prescribed by the regulations.

Section 55 of the EPBC Act provides:

The Minister must not enter into a bilateral agreement, or accredit for the purposes of a bilateral agreement a management arrangement or an authorisation process, containing a provision that:

- (a) relates to a nuclear action; and
- (b) has the effect of giving preference (within the meaning of section 99 of the Constitution) to one State or part of a State over another State or part of a State, in relation to the taking of a nuclear action:
 - (i) by a person for the purposes of trade or commerce between Australia and another country or between 2 States; or
 - (ii) by a constitutional corporation.

Section 56 of the EPBC Act provides:

The Minister must not enter into a bilateral agreement containing a provision that:

- (a) relates to an action prescribed for the purposes of subsection 25(1); and
- (b) has the effect of giving preference (within the meaning of section 99 of the Constitution) to one State or part of a State over another State or part of a State, in relation to the taking of the action:

- (i) by a person for the purposes of trade or commerce between Australia and another country or between 2 States; or
- (ii) by a constitutional corporation.

Background

Development of a new bilateral agreement

1. On 11 December 2014, the then former Minister for the Environment, the Hon Greg Hunt MP, entered into an assessment bilateral agreement with the NTA. The Agreement accredited specified NTA statutory environmental assessment processes under national environmental law, to create a single assessment process that satisfies both the NTA and Commonwealth requirements.
2. On 19 September 2019, the NTA Parliament passed new environmental legislation. The *Environment Protection Act 2019* (NT) provides for an improved environmental impact assessment framework and replaces the now repealed *Environmental Assessment Act 1982* (NT) that is accredited under the 2014 assessment bilateral agreement with the NTA.
3. On 25 November 2019, the NTA Minister for Environment, the Hon Eva Dina Lawler MLA, wrote to me, formally requesting that the governments commence discussions to enter into a new assessment bilateral agreement.
4. On 12 February 2020, I signed a Notice of Intent to develop a draft Assessment Bilateral Agreement with the NTA that would reflect the new NTA environment legislation, the *Environment Protection Act 2019* (NT), and replace the 2014 assessment bilateral agreement. In accordance with section 45(3) of the EPBC Act, the Notice of Intent was published on 12 February 2020.
5. A draft assessment bilateral agreement between the Commonwealth and the Northern Territory has been developed to provide for accreditation of specified NTA processes, so that where proposed actions are assessed under those processes and in accordance with the Agreement, the proposed actions will not need to be separately assessed by the Commonwealth Government under the EPBC Act.
6. Section 49A(a) of the EPBC Act and Regulation 16.02 of the *Environmental Protection and Biodiversity Conservation Regulations 2000* (**EPBC Regulations**) require that prior to entering into an agreement, the draft assessment bilateral agreement must be published on the website of the Department of Agriculture, Water and the Environment (the **Department**), the Gazette and in a daily NT newspaper. On 1 December 2020, I approved the release of the draft assessment bilateral agreement for public comment in that manner.
7. On 7 December 2020, a draft assessment bilateral agreement was published on the Department's website, the Gazette and in a daily NT newspaper, with an invitation for any person to comment until 29 January 2021. This satisfies the specified period of at least 28 days set out in section 49A(a)(ii) of the EPBC Act. The Department received four public submissions during this consultation period. A summary of these submissions and a report on the Department's response was provided to me.

8. In summary the submissions raised concerns in relation to matters including: the timing of the proposed assessment bilateral agreement due to pending changes to both the EPBC Act and the *Environment Protection Act 2019* (NT) (**EP Act**), the lack of resourcing in the NT Government, and the scope and effectiveness of the EP Act and the proposed agreement.
9. These submissions were taken into account in the drafting of the final assessment bilateral agreement. I took these submissions and the Department's report on the submissions into account, in making my decision to enter into the Agreement, as is required by section 49A(b) of the EPBC Act.
10. The public comments, along with the report on the Department's response to comments, will be published on the Department's website, in accordance with section 45(4)(c) of the EPBC Act after the Agreement is entered into.

The effect of the Agreement

11. The new assessment bilateral agreement (**Agreement**) provides for the accreditation of the NTA environmental assessment processes set out in Schedule 1 of the Agreement, in conjunction with the specified manner of assessment set out in Items 2 and 3 of Schedule 1 to the Agreement, to ensure an integrated and coordinated approach for assessment of actions requiring approval from both the Commonwealth Environment Minister and the NTA. The Agreement minimises duplication of environmental assessment processes, provides more efficient and effective environmental assessment processes, strengthens intergovernmental cooperation and promotes a partnership approach to environmental protection and biodiversity conservation. It is therefore a bilateral agreement within the meaning of section 45(2) of the EPBC Act.
12. Section 47(1) of the EPBC Act allows a bilateral agreement to declare that actions in a class of actions identified wholly or partly by reference to the fact that they have been assessed in a specified manner need not be assessed under Part 8 of the EPBC Act.
13. Clause 4.1 of the Agreement contains a declaration that the classes of action specified in Schedule 1 of the Agreement do not require assessment under Part 8 of the EPBC Act.
14. Item 2.1 of Schedule 1 to the Agreement specifies the classes of actions that are the subject of the declaration in clause 4.1 by reference to their assessment pathways under the EP Act, the *Environment Protection Regulations 2020* (NT) (**EP Regulations**) and the Agreement, and Item 2.2 of Schedule 1 specifies other actions that are excluded from the declaration.
15. Item 2.1 of Schedule 1 states that:
 - (a) Subject to Item 2.2 of Schedule 1, for the purposes of the declaration in 4.1 of this Agreement, the classes of actions are:
 - (i) actions that are assessed by the NT EPA under section 57 of the EP Act and Division 4 of Part 5 of the EP Regulations, whether or not the assessment also includes an assessment by inquiry under Division 7 of Part 5 of the EP Regulations;

- (ii) actions that are assessed by the NT EPA under section 57 of the EP Act and Division 5 of Part 5 of the EP Regulations, whether or not the assessment also includes an assessment by inquiry under Division 7 of Part 5 of the EP Regulations;
- (iii) actions that are assessed by the NT EPA under section 57 of the EP Act and Division 6 of Part 5 of the EP Regulations, whether or not the assessment also includes an assessment by inquiry under Division 7 of Part 5 of the EP Regulations; and
- (iv) actions that are assessed by the NT EPA under section 57 of the EP Act and Division 7 of Part 5 of the EP Regulations, and which are not assessed by any other method of environmental impact assessment under the EP Regulations,

where the assessment has been undertaken in accordance with the requirements of Item 3 of Schedule 1 of the Agreement and

(b) For the purposes of regulation 3.02 of the EPBC Regulations, the manner of assessment specified:

- (i) in each of Items 2.1(a)(i) and 2.1(a)(ii), is taken to correspond to assessment on preliminary documentation under Division 4 of Part 8 of the EPBC Act;
- (ii) in Item 2.1(a)(iii), is taken to correspond to assessment by environmental impact statement under Division 6 or Part 8 of the EPBC Act; and
- (iii) in Item 2.1(a)(iv), is taken to correspond to assessment by inquiry under Division 7 of Part 8 of the EPBC Act.

(c) A reference in Item 2.1(a) to an 'action' includes an action that is proposed by a referred strategic proposal (as that term is defined in the EP Regulations).

16. Item 2.2 of Schedule 1 to the Agreement provides the excluded actions. A class of actions described in Item 2.1(a) does not include:

(a) actions which have been:

- (i) determined to be a controlled action pursuant to section 75 of the EPBC Act prior to the Commencement Date; or
- (ii) prescribed under subsection 25(1) of the EPBC Act; or

(b) a significant variation of an action (as defined in section 12 of the EP Act) in respect of which:

- (i) Division 2 of Part 7 of the EP Regulations applies, and the NT EPA has made a decision under regulation 204(2)(a) or 204(2)(b) of the EP Regulations; or
- (ii) Division 3 of Part 7 of the EP Regulations applies, and the NT EPA has made a decision under regulation 227(1)(a) or 227(1)(b) of the EP Regulations; or

(c) actions consisting of or involving the construction or operation of any of the following nuclear installations:

- (i) a nuclear fuel fabrication plant;
- (ii) a nuclear power plant;
- (iii) an enrichment plant;
- (iv) a reprocessing facility.

17. The Agreement includes an item (Schedule 1, Item 3.6) that specifies that an Assessment Report must be prepared for each action that is assessed under the Agreement and sets out the matters that must be included in the report. Relevantly, Items 3.6(b)(i)(C) and 3.6(b)(ii) of Schedule 1 require the Assessment Report to include a description of any matters of national environmental significance (**Matters of NES**) that are likely to be affected by the action and a separate chapter dealing with all relevant impacts on Matters of NES that are likely to be affected by the action. Items 3.6(b)(iii), 3.6(b)(iv), 3.6(b)(v), 3.6(b)(vi) and 3.6(b)(vii) of Schedule 1 specify that the Assessment report must include a description of why the taking of the action would not be inconsistent with Australia's obligations under its national and international conventions, commitments and agreements regarding World Heritage property, National Heritage places, Ramsar wetlands, listed threatened species, listed threatened ecological communities and listed migratory species. In addition, Item 3.3 of Schedule 1 to the Agreement (**assessment documentation**) includes requirements to ensure that the assessment documentation prepared by proponents addresses the matters required by the EPBC Act, including likely impacts on Matters of NES.

18. In addition:

- a. Item 3.4 of Schedule 1 includes requirements to ensure that public comments are sought in a manner that satisfies the EPBC Regulations; and
- b. Item 3.5 of Schedule 1 includes specifies requirements for the Assessment by inquiry, which only applies to the class of action specified in Item 2.1(a)(iv).

19. Under section 48(1) of the EPBC Act, there is a list of additional provisions that a bilateral agreement may include. The Agreement includes some additional provisions that are provided for in section 48(1). These include:

- a. Clause 4.4 of the Agreement, which relates to the previous bilateral agreement and transitional arrangements (as provided for in section 48(1)(f) of the EPBC Act).
- b. Clause 6.5 of the Agreement, which contains an agreement by the parties to take steps to improve the efficiency and effectiveness of administrative processes of environmental assessment and approval processes (as provided for in section 48(1)(b) of the EPBC Act in connection with the objects at section 44(c) and (d)).
- c. Clause 6.7(b) of the Agreement, which relates to the provision of additional information to the Commonwealth Minister at the same time as the assessment report is provided (as provided for in section 48(1)(c) of the EPBC Act).

- d. Clauses 7.2 and 7.3 of the Agreement, which relate to providing public access to assessment documentation (as provided for in section 48(1)(d) of the EPBC Act).
 - e. Clause 8.1(c) of the Agreement, which relates to minimising duplication of conditions imposed by both parties, to the extent possible for controlled actions assessed under this Agreement (as provided for in section 48(1)(b) of the EPBC Act in connection with the object at section 44(d)).
 - f. Clause 9.3 of the Agreement, which relates to the exchange of information between parties (as provided for in section 48(1)(c) of the EPBC Act).
 - g. Clause 10.1 of the Agreement, which relates to the review of the operation and effectiveness of this Agreement (as provided for in section 48(1)(e)(iii) of the EPBC Act).
 - h. Clause 11.1 of the Agreement, which provides provisions for audit of the Agreement (as provided for in section 48(1)(e)(ii) of the EPBC Act).
20. Minor technical amendments were made to the Agreement after a draft of the Agreement was released for public comment, including to:
- a. amend clause 1.1 regarding the definition of Matter of NES;
 - b. amend clause 6.1(a)(iii) to align with the wording of section 48(a) of the EPBC Act;
 - c. amend clause 6.3 to reflect drafting preferences of the NT without affecting the intent of the clause;
 - d. amend clause 6.6(a) to clarify the inquiry process under NT Law;
 - e. amend clause 6.6(b) to include cultural Information;
 - f. amend clause 6.8 to reflect drafting preferences of the NT without affecting the intent of the clause and to include other relevant guidelines, policies and plans;
 - g. amend clauses 7.2 and 7.3(c)(iii) to reflect drafting preferences of the NT without affecting the intent of the clause;
 - h. amend clauses 8.1 and 8.2 to reflect drafting preferences of the NT without affecting the intent of the clause; and
 - i. amend Schedule 1 to clarify the inquiry process under NT Law and to clarify what must be taken into account in an Assessment Report.

Evidence or other material on which my decision was based

21. The evidence or other material on which I based my decision to enter into an Agreement with the NTA includes the decision brief prepared by my Department in relation to the Agreement. Among other matters, the brief included:
- a. an analysis of the requirements for entering into a bilateral agreement that are specified in the EPBC Act;

- b. an analysis of the requirements for entering into a bilateral agreement that are specified in the EPBC Regulations;
- c. the public comments that were received in response to the invitation to comment on the draft Agreement; and a report on the public comments received, which will be published for the purpose of section 45(4)(c) of the EPBC Act, including recommendations on how the comments should be taken into account;
- d. information in relation to the role and interests of Indigenous peoples in the NTA environmental assessment processes;
- e. all the recovery plans and threat abatement plans in operation for threatened species and ecological communities relating to actions that may be taken in the Territory (copies of these plans were provided to me by the Department and were placed before me with the brief when I made my decision to enter into the Agreement);
- f. relevant international conventions referenced in Subdivision B, of Division 2 of Part 5, of the EPBC Act (copies of these conventions were provided to me by the Department and were placed before me with the brief when I made my decision to enter into the Agreement);
- g. all the approved conservation advices, within the meaning of section 266B of the EPBC Act, for the listed threatened species and ecological communities located in the Territory (copies of these advices were provided to me by the Department and were placed before me with the brief when I made my decision to enter into the Agreement); and
- h. the Agreement.

Findings in relation to the statutory requirements for the decision

Agreement may declare classes of actions do not need assessment (section 47 of the EPBC Act)

- 22. Under section 47(2) of the EPBC Act, I must be satisfied that assessment of an action in the specified manner will include assessment of the impact the action has or will have, or is likely to have, on each matter protected by a provision of Part 3.
- 23. The Department has undertaken a thorough analysis of the new NTA legislation accredited by the Agreement against the requirements of the EPBC Act and EPBC Regulations. For each class of action, the analysis confirmed that the relevant NTA process, in conjunction with the specified manner of assessment set out in Items 2 and 3 of Schedule 1 to the Agreement, met these requirements. In particular, the assessment under the Agreement will allow me to have sufficient information to make an informed decision, including by ensuring that for the assessment of any proposed action I will be provided with an assessment report that addresses all Matters of NES likely to be affected by the action and considers relevant Commonwealth guidelines, policies and plans. I considered this analysis and agree with the Department's conclusions that assessment of an action in the manner specified in the Agreement will include an assessment of the impacts the action has or will have; or is likely to have on each matter protected by a Provision of Part 3.

24. I was satisfied that the manners of assessment specified for each class of action in Item 2.1(a) of Schedule 1 to the Agreement, in conjunction with the additional assessment requirements set out in Item 3 of Schedule 1, meet the requirement under section 47(2) of the EPBC Act, and will ensure that, where an action is likely to have a significant impact on one or more protected matters, there will be proper assessment and consideration of those impacts before a decision is made by me or my delegate as to whether or not to approve the taking of the action.
25. I was therefore satisfied that, as required by section 47(2) of the EPBC Act, the assessment of an action in the specified manner under the Agreement would include assessment of the impacts that the action has, will have, or is likely to have, on each matter protected by a provision of Part 3 of the EPBC Act.

Consultation on draft agreement (section 49A of the EPBC Act)

26. Section 49A(b) of the EPBC Act requires that I take into account the comments received in response to the invitation for public comment published under section 49A(a). The public comments received were provided for my consideration, in addition to a report on the comments received that was prepared by my Department.
27. Four (4) submissions on the Agreement went to various matters relating to the Agreement, including:
- a. concerns in relation to the timing of the Agreement due to pending changes to both the EPBC Act and the EP Act, and further proposed legislative changes in the NTA;
 - b. concerns in relation to the lack of resourcing in the NT Government;
 - c. specific suggestions regarding the text or content of the Agreement;
 - d. potential for conflict of interest in relation to NT Government assessments and approvals of certain actions;
 - e. the scope and effectiveness of the EP Act and the Agreement;
 - f. support for the proposed Agreement as a streamlining measure; and
 - g. other matters associated with environmental assessment and approvals processes.
28. Detail of the public comments and responses to them were included in a separate report on public comments prepared by my Department (**Public Comment Report**). I have taken into account the public comments in accordance with section 49A(a) in making my decision on whether or not to enter into the Agreement. Furthermore, I approved the publication of the Public Comment Report in accordance with section 45(4) of the EPBC Act
29. Section 49A(c) requires that I consider the role and interests of Indigenous people in promoting the conservation and ecologically sustainable use of natural resources, taking into account Australia's commitments under the *Convention on Biological Diversity 1993* (the **Biodiversity Convention**).
30. Article 14(c) of the Biodiversity Convention requires appropriate public participation in

environmental impact assessment procedures. Article 8(j) of the Biodiversity Convention also imposes an obligation, as far as possible and as appropriate, and subject to Australia's national legislation, to respect, preserve and maintain knowledge, innovations and practices of Indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, and to promote their wider application with the approval and involvement of the holders of such knowledge, innovations, practices and encourage the equitable sharing of the benefits arising from the utilisation of such knowledge, innovations and practices.

31. I have considered NTA law governing actions in the NTA that requires indigenous consultation as part of the general duties of proponents under an environmental impact assessment process (section 43 under Part 4 of the EP Act), which are relevant to Article 14(c) and Article 8(j) of the Biodiversity Convention.
32. The NTA recognises the role that Aboriginal people have as stewards of their country as conferred under their traditions and recognised in law, and the importance of participation by Aboriginal people and communities in environmental decision-making processes. NTA law ensures that Aboriginal people have early input into the assessment of the cultural significance of their heritage and its management so they can continue to fulfil their obligations towards their heritage; and control the way in which cultural knowledge and other information relating specifically to their heritage is used, as this may be an integral aspect of its heritage value.
33. The NTA process enables Aboriginal people to contribute to the promotion of their knowledge and interests in relation to impacts on Matters of NES where a relevant matter relates to cultural heritage (which may include impacts on listed threatened species and ecological communities, migratory species, world heritage places, national heritage places, Ramsar wetlands and water resources impacted by coal seam gas and large coal mining developments). In conjunction with Clause 7.1(b) of the Agreement, the NTA process promotes the cooperative use of Indigenous peoples' knowledge and provides for Aboriginal people to be consulted in an appropriate and sensitive manner to contribute to the assessment of individual developments and inform decisions on whether or how developments should proceed, and any conditions of approval.
34. Furthermore, I note that the Agreement includes recognition of the role and interests of Indigenous people at Clause 7. Clause 7.1(a) provides that the parties agree that assessments of a controlled action made in accordance with Schedule 1, will recognise the role and interests of Indigenous peoples in promoting the conservation and ecologically sustainable use of natural resources. Clause 7.1(c) commits the NTA to ensure that proponents take all reasonable steps to obtain the views of any group of Indigenous people directly affected by a controlled action and that, where appropriate, views of Indigenous people will be treated as the primary source of information on the value of Indigenous cultural heritage.
35. Clause 7.3 provides that the NTA will, in providing public access to assessment documentation, make special arrangements, as appropriate, to ensure affected groups with particular communication needs have an adequate opportunity to comment on controlled actions assessed in the manner specified in Schedule 1 and comment on, and otherwise access, assessment documentation for such controlled actions. In particular,

Clause 7.3(b) requires NTA to make arrangements to ensure that affected Indigenous people have reasonable opportunity to comment on controlled actions assessed in a manner specified in Schedule 1.

36. I find that the mandated opportunity for Indigenous people to participate in the NTA assessment process and the commitments in Clause 7 of the Agreement, ensures an effective role for Indigenous peoples in promoting the conservation and ecologically sustainable use of natural resources, taking into account Australia's relevant obligations under the Biodiversity Convention.

Minister may only enter into agreement if prescribed criteria are met (section 50 of the EPBC Act)

37. Section 50(a) of the EPBC Act requires me to be satisfied that a bilateral agreement accords with the objects of the EPBC Act as set out in section 3(1).
38. Object C of the Agreement outlines how the Commonwealth and the NTA are jointly committed to maintaining their commitment to high environmental standards and working together to streamline environmental assessment, including by making swift decisions and delivering certain outcomes. This overarching intention supports achievement of object 3(1)(d) of the EPBC Act, which is to promote a co-operative approach to the protection and management of the environment.
39. Object D of the Agreement outlines the commitment of the parties to work cooperatively to:
- a. protect the environment;
 - b. promote the conservation and ecologically sustainable use of natural resources;
 - c. ensure an efficient, timely and effective process for environmental assessment of controlled actions;
 - d. minimise duplication in the environmental assessment and approval processes of the Commonwealth and the NTA.
40. Paragraphs (a) – (d) above give effect to objects 3(1)(a), (b), (c), (ca) and (3)(1)(e) of the EPBC Act, which are to:
- a. provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance;
 - b. promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources;
 - c. promote the conservation of biodiversity;
 - d. provide for the protection and conservation of heritage; and
 - e. assist in the co-operative implementation of Australia's international environmental responsibilities.
41. I note that:

- a. clause 6 of the Agreement and Item 3.6(b) of Schedule 1 to the Agreement provide for assessment of likely impacts on Matters of NES by an accredited process outlined in Schedule 1. This promotes a co-operative approach to the protection and management of Matters of NES (object (1)(d) of the EPBC Act) that is not inconsistent with the protection of Matters of NES (object (1)(a) of the EPBC Act);
- b. the Agreement facilitates a co-operative approach to environmental assessments by ensuring that NTA environmental assessment processes may be used for the purpose of decisions on whether to approve actions under Part 9 of the EPBC Act, and through undertakings for administrative co-operation between the parties, such as under clause 9 of the Agreement (object (1)(d) of the EPBC Act);
- c. clause 7.1 of the Agreement specifically notes the roles and interests of Indigenous peoples in promoting conservation and ecologically sustainable use of natural resources (objects (1)(b), (d), (f) and (g) of the EPBC Act); and
- d. Item 3.6(b)(iii), 3.6(b)(iv), 3.6(b)(v), 3.6(b)(vi) and 3.6(b)(vii) of Schedule 1 to the Agreement commits the NTA to ensure that assessment of a controlled action is not inconsistent with plans and policies under international agreements and has included consideration of relevant policies and guidelines under international agreements, thus enabling Australia to comply with its international environmental obligations and promoting biodiversity conservation and the protection and conservation of heritage (object (1)(c) and (ca) of the EPBC Act).

42. I was therefore satisfied that the Agreement accords with the objects of the EPBC Act.

43. Section 50(b) of the EPBC Act requires a bilateral agreement to meet the requirements (if any) prescribed by the EPBC Regulations.

44. The EPBC Regulations set out requirements for assessment bilateral agreements in Part 3 (bilateral agreements). In particular, relevant requirements are set out in EPBC Regulations 3.02(a), 3.03, 3.04, 3.05 and 3.06, and each item in Schedule 1 (Classes of actions not needing assessment).

45. Regulation 3.02 of the EPBC Regulations provides that a bilateral agreement must identify each assessment approach used in the manner of assessment specified in the Agreement, and state that the assessment approach corresponds to a particular approach in either Division 4, 5, 6 or 7 of Part 8 of the EPBC Act. I found that Item 2.1(a) of Schedule 1 identifies the assessment approaches in the Agreement and item 2.1(b) of Schedule 1 states the corresponding assessment approach set out under Part 8 of the EPBC Act, thus meeting the requirements of EPBC Regulation 3.02.

46. Regulation 3.03 of the EPBC Regulations requires that the bilateral agreement provide that documentation about each assessment must be made publicly available. To the extent that a specified manner of assessment in Item 2.1 of Schedule 1 did not require the such documents to be made publicly available in the manner required by the EPBC Regulations, Item 3.4 of Schedule 1 contains additional public exhibition requirements to ensure that the requirements in the EPBC Regulations will be satisfied. Clause 7.3 in the Agreement commits the NTA to make special arrangements, as appropriate to ensure affected groups with particular communication needs have adequate opportunity to access, and comment

on, assessment material, meeting the requirements of EPBC Regulation 3.04.

47. Clause 4.1 of the Agreement declares for the purposes of subsection 47(1) of the EPBC Act, that a controlled action does not require assessment under Part 8 of the EPBC Act if the controlled action is in the class of actions specified in Schedule 1. I note that the specified manner of assessment for each class of actions identified in Schedule 1 of the Agreement meets the criteria mentioned in Schedule 1 to the EPBC Regulations, satisfying the requirement of EPBC Regulation 3.06.
48. I considered an analysis of NTA legislation, accredited by the Agreement, against the relevant requirements of the EPBC Regulations. For each class of actions, the analysis confirmed that the relevant NTA process, in conjunction with the specified manner of assessment set out in Schedule 1 to the Agreement, met these requirements.
49. I was therefore satisfied that the Agreement met the requirements of the EPBC Regulations.

Agreements relating to relevant international agreements, management principles etc (sections 51-54 of the EPBC Act)

50. The Agreement accredits processes that relate to the assessment of impacts of actions on Matters of NES that include: World Heritage properties; National Heritage places; declared Ramsar wetlands; listed threatened species and communities; migratory species; a water resource in relation to coal seam gas or large coal mining developments; and the environment in relation to actions occurring on the Territory land or within the Territory waters that impact on Commonwealth land or the Commonwealth marine area, and certain nuclear actions.
51. Sections 51 – 54 of the EPBC Act relate to international agreements, including the promotion of the management of World Heritage properties, National Heritage places and declared Ramsar wetlands in accordance with applicable management principles, and consideration of key documents related to threatened species, migratory species and ecological communities.

International agreements and conventions

52. With regard to these relevant international agreements I note that:
- a. As a party to the World Heritage Convention, Australia recognises its duty to ensure the identification, protection, conservation, presentation and transmission to future generations of its cultural and natural heritage (as described in Articles 1 and 2 of the Convention) (Article 4). It undertakes to do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain (Article 4). The Convention contains a number of specific obligations relating to the protection of natural and cultural heritage, including an obligation to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage (Article 5(d)).

- b. The key objectives of the Ramsar Convention on Wetlands are to halt the worldwide loss of wetlands and to conserve, through wise use and management, those wetlands that remain. The Ramsar Convention also incorporates an obligation to promote the wise use of all wetlands, including Ramsar wetlands. Wise use refers to the maintenance of the ecological character of these wetlands. Australia's key international obligations under the Ramsar Convention include the requirement to promote the conservation of listed wetlands, and to be informed if the ecological character of a listed wetland is changing, or likely to change, as a result of human interference. To qualify for inscription on the Ramsar List of Wetlands of International Importance, signatories to the Ramsar Convention must only designate suitable wetlands which are internationally significant in terms of ecology, botany, zoology, limnology or hydrology.
- c. Australia provides critical habitat for millions of members of migratory species each year. To ensure their conservation, the Australian Government has fostered international cooperation as a signatory to the Bonn Convention and through a range of important agreements, including bilateral agreements with Japan (JAMBA), China (CAMBA), and the Republic of Korea (ROKAMBA). The Bonn Convention aims to conserve terrestrial, aquatic and avian migratory species throughout their range.
- d. Australia's key international obligations under the Bonn Convention include the prevention, removal, compensation or mitigation of the adverse impacts of activities that seriously impede or prevent the migration of these species and the prevention or reduction of the activities that are endangering, or likely to further endanger, a listed migratory species. Collectively, the objectives of CAMBA, JAMBA and ROKAMBA relate to the management and protection of migratory birds and birds in danger of extinction, and the protection and conservation of the habitats of the birds protected under these agreements. While broadly similar in terms of objectives, these multilateral agreements create a number of different but related international obligations for Australia in regard to a listed migratory species.
- e. Australia's international obligations under CAMBA include the requirement to encourage the conservation of migratory birds, especially those species in danger of extinction; and to take appropriate measures to preserve and enhance the environment of migratory birds. Australia's obligations under JAMBA include the requirement to take special protective measures for the preservation of species or subspecies of birds which are in danger of extinction, and to endeavour to take appropriate measures to preserve and enhance the environment of birds protected under the provisions of JAMBA, including both migratory birds and birds in danger of extinction. Australia's obligations under ROKAMBA include the requirement to encourage the conservation of migratory birds and to endeavour to manage and conserve the habitat of migratory birds through activities such as the designation of conservation areas in its territory.
- f. The objectives of the Biodiversity Convention relate to the conservation of biological diversity and the sustainable use of natural resources. Australia's obligations under the Biodiversity Convention include identifying and monitoring activities that will have significant adverse impacts on conservation and sustainable use of biological diversity, promoting the protection of ecosystems and the recovery of threatened species and

preserving, respecting and maintaining the knowledge of Indigenous people with respect to conservation and the sustainable use of biodiversity.

53. I consider that there are a number of features of the Agreement relevant to these international commitments. In particular I note that:

- a. The Agreement contains a commitment at Item 3.6(b)(iii), 3.6(b)(iv), 3.6(b)(v), 3.6(b)(vi) and 3.6(b)(vii) of Schedule 1 that NTA will ensure that the Assessment Report for a controlled action covered by this Agreement addresses whether the taking of the action would be inconsistent with the relevant international agreements listed under sections 51 to 54 of the EPBC Act.
- b. I consider that these provisions provide a framework for the identification and assessment of all the impacts of a controlled action including those that will or are likely to have, a significant impact on the values of a declared World Heritage properties, National Heritage places, Ramsar sites, migratory species, and biodiversity.
- c. Furthermore, additional assurance mechanisms provided in the Agreement are also not inconsistent with the conservation of threatened species and ecological communities, including commitments that the assessment report for a controlled action covered by the Agreement addresses whether granting (or not granting) approval for the taking of the action (and the conditions that may be attached to any such approval) is not inconsistent with Australia's international obligations. The Agreement also highlights the commitment of both parties to recognise the role and interests of Indigenous peoples in promoting the conservation and ecologically sustainable use of natural resources and to promote the cooperative use of Indigenous peoples' knowledge of biodiversity and Indigenous heritage (Clause 7.1).

54. With regard to the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES), I note that CITES is an international agreement that relates to international wildlife trade and aims to ensure that international trade in wild animals and plants do not threaten the survival of these species. Regulation of that trade will continue to be administered under the EPBC Act and will not be affected by the Agreement. Therefore, I consider that the provisions of the Agreement which relate to listed threatened species and ecological communities are not inconsistent with this arrangement.

55. With regard to the Convention on the Conservation of Nature in the South Pacific (Apia Convention), I note that the Apia Convention has the general aim of promoting the conservation of biodiversity. The Apia Convention was suspended with effect from 13 September 2006.

Management Principles

56. Schedule 5, 5B and 6 of the EPBC Regulations sets out the Australian World Heritage management principles, National Heritage management principles and Australian Ramsar management principles. The Agreement includes undertakings by the NTA in Items 3.6(b)(iii)(B), 3.6(b)(iv)(A) and 3.6(b)(v) of Schedule 1 that it will ensure that the assessment report for a controlled action covered by the Agreement addresses whether the taking of the action is inconsistent with the Australian World Heritage management

principles, National Heritage management principles and Australian Ramsar management principles.

57. Many of the Australian World Heritage management principles, National Heritage management principles and Australian Ramsar management principles relate to the adequate assessment of a controlled action.
58. This commitment is supported by steps outlined in Clause 6.9 of the Agreement and Item 3.6 of Schedule 1 which provide for the assessment of the impacts of a controlled action considering their relationship with the above management principles. These provisions provide a framework for the identification and assessment of all the impacts of a controlled action including those that will or are likely to have, a significant impact on the values of World Heritage properties, National Heritage Places, or declared Ramsar wetlands.
59. Many of the Australian World Heritage management principles, National Heritage management principles and Australian Ramsar management principles relate to the provision of adequate public consultation with regard to the impacts on and management of a World Heritage, National Heritage or Ramsar site. The Agreement incorporates a number of provisions that support public consultation, including specific clauses relating to obtain the views of any group of Indigenous people (Clause 7.1), public access to documentation (Clause 7.2), public access for groups with particular needs (Clause 7.3) and seeking public comments (Item 3.4 of Schedule 1). These provisions reinforce the public consultation requirements that are already provided for in the accredited NTA processes.
60. The Australian World Heritage management principles and the Australian Ramsar management principles go to the need to develop management plans for World Heritage properties and declared Ramsar wetlands respectively. Management plans have similar importance for National Heritage places and are required to be prepared under the EPBC Act in order to protect and manage the National Heritage values of the National Heritage place in a manner that is not inconsistent with the National Heritage management principles. The provisions of the Agreement reflect the importance of such management plans, and Item 3.6 of Schedule 1 requires that each Assessment Report state why the taking of an action will not be inconsistent with a plan prepared for a World Heritage property (section 316 or 321 of the EPBC Act) or National Heritage place (section 324S or 324X of the EPBC Act). Also, clause 9.5 of the Agreement commits both parties to working cooperatively to ensure the development of guidance documents relating to Matters of NES. The term 'guidance document' is expressed to include any management plan for a declared World Heritage property, a National Heritage Place or a declared Ramsar wetland.
61. For the reasons discussed above, the Agreement is not inconsistent with the Australian World Heritage management principles, National Heritage management principles and Australian Ramsar management principles. The Agreement encourages and facilitates the management of World Heritage, National Heritage and Ramsar places in accordance with the respective management principles. On the basis of the conclusions outlined above, I am satisfied that the Agreement will promote the management of World Heritage properties, National Heritage Places, and declared Ramsar wetlands in accordance with

the Australian World Heritage management principles, National Heritage management principles and Australian Ramsar management principles.

Promoting and/or enhancing the conservation status of listed threatened species, ecological communities and listed migratory species

62. Sections 53(1)(b) and 54(1)(b) require me to be satisfied that if a provision of the Agreement relates to a listed threatened species, ecological community or listed migratory species, the Agreement will promote the survival and/or enhance the conservation status of the listed threatened species, ecological community or listed migratory species. I note that one of the Objects of the Agreement is the commitment of both parties to work cooperatively to promote the conservation and ecologically sustainable use of natural resources (Object D (b)).

63. I note that the object above is implemented through the specific provisions of the Agreement that:

- a. Outline requirements to support the provision of adequate information to decision-makers, including by providing for an Assessment Report that addresses the relevant impacts of the controlled action on Matters of NES (Clause 6.7).
- b. When preparing Assessment Reports on relevant impacts under the Agreement, the NTA agrees to take into account as far as practicable, relevant Commonwealth guidelines, policies and plans (Clause 6.9).
- c. Require an assessment that includes a description of why the taking of the actions would not be inconsistent with Australia's obligations under international agreements and conventions (Item 3.6 of Schedule 1).
- d. Provides a mechanism whereby the NTA may seek advice from expert bodies established under the EPBC Act, as well as from the Department (Clause 6.4). The ability of the NTA to seek advice from expert bodies provides an opportunity for relevant expertise to be incorporated in the assessment process which, in turn, could be used to inform the development of avoidance and mitigation measures and the attachment of environmental conditions.

64. I therefore note that the Agreement has the overall effect of promoting the survival and/or enhancing the conservation status of listed threatened species, ecological communities and listed migratory species by ensuring that decision-makers are aware of all impacts on these species and ecological communities and can therefore make conditions to address these impacts.

Consideration of key documents relevant to threatened species and communities

65. Section 53(1)(c) of the EPBC Act requires me to be satisfied that a provision in the Agreement relating to a listed threatened species or ecological community is not inconsistent with any recovery plan for the species or community or threat abatement plan.

66. Recovery plans provide for research and management actions necessary to stop the decline of, and support the recovery of, a listed threatened or ecological community.

Threat abatement plans provide for research, management and other actions necessary to reduce a key threatening process to an acceptable level.

67. Section 53(1)(ca) of the EPBC Act requires that I have regard to the approved conservation advices in place for relevant listed threatened species and ecological communities. Conservation advices are developed under section 266B of the EPBC Act to provide basic ecological information on listed threatened species and communities – including description, habitat requirements, distribution, key threats and the various recovery or threat abatement activities that will assist in the conservation of each species and community. Conservation advices also provide the listing status of the relevant species or community, and the grounds for their listing.
68. As well as providing an information source for the public, conservation advices are used by the Commonwealth to assist in environmental assessments and approvals under the EPBC Act and to develop approval conditions that are appropriately tailored to the impacted species or community. These approved conservation advices contain:
 - a. information about what could appropriately be done to stop the decline of, or support the recovery of, a listed threatened or migratory species or ecological community; or
 - b. a statement to the effect that there is nothing that could appropriately be done to stop the decline of, or support the recovery of, a listed threatened, migratory species or ecological community.
69. I had regard to the approved conservation advices, recovery plans and threat abatement plans for the listed threatened species and ecological communities that are relevant to actions that may be taken in the Territory, and I have considered the analysis undertaken of the NTA legislation accredited by the Agreement against the requirements of the EPBC Act and EPBC Regulations. I note that:
 - a. the Agreement requires the assessment of impacts of actions on listed threatened species and ecological communities (Item 3.6(b)(ii)(D)) of Schedule 1);
 - b. the NTA agrees to ensure that the Assessment Report for each assessed action will address whether or not the taking of an action is inconsistent with a relevant recovery plan and threat abatement plan (Item 3.6(b)(vi)(B) of Schedule 1); and
 - c. the NTA agrees to take into account as far as practicable any relevant recovery plan, approved conservation advice or threat abatement plan (Clause 6.9(b) in the Agreement), when preparing an Assessment Report to provide to the Commonwealth Minister.
70. The Agreement will ensure that, where an action is likely to have a significant impact on protected matters, there will be proper assessment and consideration of those impacts before a decision is made by the Minister whether or not to approve the action in accordance with the requirements of Part 9 of the EPBC Act. The thoroughness of the assessment under the relevant NTA processes has been considered in accordance with the EPBC Regulations, as discussed above.

71. I was therefore satisfied that:

- a. the Agreement is not inconsistent with Australia's obligations under the relevant international agreements, and promotes the management of World Heritage properties, National Heritage places and declared Ramsar wetlands in accordance with the applicable management principles;
- b. the Agreement will promote the survival and/or enhance the conservation status of each listed threatened species or ecological community or listed migratory species to which the provisions of the Agreement relate;
- c. the Agreement is not inconsistent with any recovery plan or threat abatement plan; and
- d. the assessment processes under Schedule 1 of the Agreement are not inconsistent with the measures contained in approved conservation advices.

Discretionary considerations

72. The Australian Government is committed to reducing the regulatory burden on business by streamlining the environmental approvals process. To deliver on this commitment the Australian Government is working with state and territory governments to maintain bilateral agreements in relation to environmental assessments, accrediting state planning systems under national environmental law. This ensures a single assessment process that satisfies both state and Commonwealth requirements. The Government is committed to having assessment bilateral agreements implemented in all willing states and territories.

73. I found that the Agreement would contribute to reducing regulatory burden by reducing duplication in environmental assessments.

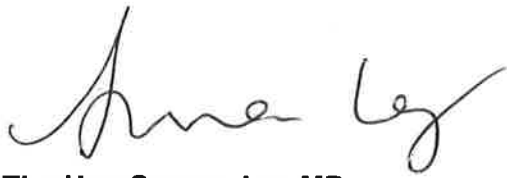
74. In light of my findings set out above, I found that the Agreement would remove duplication of environmental assessment processes and provide more efficient and effective environmental assessment processes for those processes accredited under the Agreement, strengthen intergovernmental cooperation and promote a partnership approach to environmental protection and biodiversity conservation.

Reasons for my decision

75. Based on my findings set out in this Statement of Reasons, I was satisfied that:

- a. the statutory requirements for entering into the Agreement were all satisfied;
- b. the Agreement would remove duplication of environmental assessment processes and provide more efficient and effective environmental assessment processes for those processes accredited under the Agreement, strengthen intergovernmental cooperation, and promote a partnership approach to environmental protection and biodiversity conservation; and
- c. the Agreement would assist in giving effect to the Australian Government's commitment to reduce regulatory burden and ensure assessments are undertaken in shorter timeframes.

I therefore decided to enter into the Agreement on behalf of the Commonwealth.



The Hon Sussan Ley MP

Minister for the Environment

25th day of September 2021 — October 2021