

AMENDING AGREEMENT NO.5

**A BILATERAL AGREEMENT BETWEEN THE
COMMONWEALTH AND THE STATE OF QUEENSLAND**

**UNDER SECTION 45 OF THE
*ENVIRONMENT PROTECTION AND
BIODIVERSITY CONSERVATION ACT 1999***

**AMENDING THE PRINCIPAL AGREEMENT
RELATING TO ENVIRONMENTAL ASSESSMENT**

RECITALS

- A. The State of Queensland and the Commonwealth of Australia (together the **parties**) entered into a bilateral agreement for environmental assessment under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* dated 11 August 2009 (the **Original Agreement**).
- B. The parties varied the Original Agreement under an amending agreement dated 12 December 2009 (**Amending Agreement No.1**).
- C. The parties further varied the Original Agreement, as amended by Amending Agreement No.1, under an amending agreement dated 14 June 2012 (**Amending Agreement No.2**).
- D. The parties further varied the Original Agreement, as amended by Amending Agreement No.1 and Amending Agreement No.2, under an amending agreement dated 13 December 2013 (**Amending Agreement No.3**).
- E. The parties further varied the Original Agreement, as amended by Amended Agreement No. 1 and Amending Agreement No. 2 and Amending Agreement No. 3, under an amending Agreement dated 17 December 2014 (**Amending Agreement No. 4**).
- F. The State of Queensland and the Commonwealth of Australia have agreed to amend the terms of the Original Agreement, as varied by the Amending Agreement No.1, Amending Agreement No.2, Amending Agreement No.3 and Amending Agreement No. 4 (together the **Principal Agreement**) in accordance with this Amending Agreement No.5.

PARTIES TO THE AGREEMENT

1. The parties to this Amending Agreement No.5 are the State of Queensland and the Commonwealth of Australia.

COMMENCEMENT

2. This Amending Agreement No.5 commences on signature by the last party to sign.

AMENDMENTS TO THE PRINCIPAL AGREEMENT

3. With effect from the commencement of this Amending Agreement No.5, the parties agree to the following amendments to the Principal Agreement. The Principal Agreement is varied by:
 - (a) inserting all clauses and words that are double underlined; and
 - (b) deleting all clauses and words that are crossed through,in the copy of the Principal Agreement that forms Attachment A to this Amending Agreement No.5.

NATURE OF THE AGREEMENT

4. The Principal Agreement continues in full force and effect, as amended by this Amending Agreement No.5.

INTERPRETATION

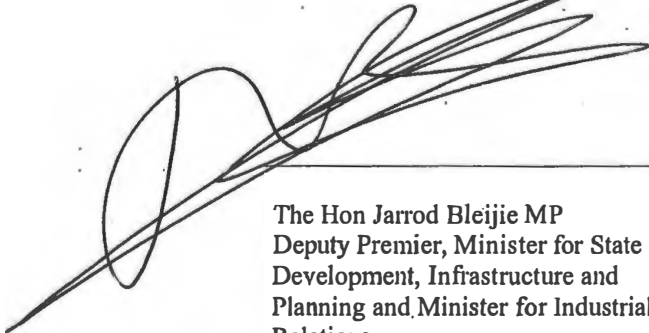
5. A reference in this Amending Agreement No.5 to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* is a reference to the relevant Act as in force at the commencement of this Amending Agreement No.5.
6. Unless the contrary intention appears, the terms used in this Amending Agreement No.5 have the same meaning as in the Principal Agreement.

COUNTERPARTS

7. This Amending Agreement No.5 may be executed in counterparts. All executed counterparts constitute one document.

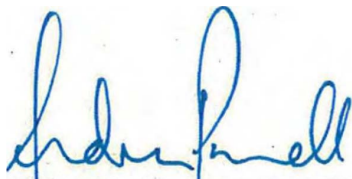
EXECUTION

Signed for and on behalf of the State of
Queensland by:



The Hon Jarrod Bleijie MP
Deputy Premier, Minister for State
Development, Infrastructure and
Planning and Minister for Industrial
Relations

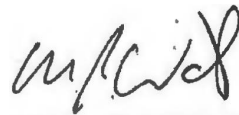
Date: 17/11/25



The Hon Andrew Powell MP
Minister for the Environment and
Tourism and Minister for Science and
Innovation

Date: 20.10.2023

Signed for and on behalf of the
Commonwealth by:



Senator the Hon Murray Watt
Minister for the Environment and
Water

Date: 25/9/25

**A BILATERAL AGREEMENT BETWEEN THE
COMMONWEALTH AND THE STATE OF QUEENSLAND**

**UNDER SECTION 45 OF THE
*ENVIRONMENT PROTECTION AND
BIODIVERSITY CONSERVATION ACT 1999***

RELATING TO ENVIRONMENTAL ASSESSMENT

AIM

- 1 The Commonwealth and Queensland Governments are jointly committed to maintaining high environmental standards and working together to streamline environmental assessments and approvals. This agreement aims to remove duplication of environmental assessment processes, strengthen intergovernmental cooperation and promote a partnership approach to environmental protection and biodiversity conservation. In particular, this agreement provides for the accreditation of the Queensland environmental assessment processes set out in Schedule 1 to ensure an integrated and coordinated approach for actions requiring approval from both the Commonwealth Environment Minister (under the *Environment Protection and Biodiversity Conservation Act 1999*) and the State of Queensland. This agreement will enable the Commonwealth to rely on the Queensland assessment processes set out in Schedule 1 in assessing actions under the *Environment Protection and Biodiversity Conservation Act 1999*.
- 2 Under the Intergovernmental Agreement on the Environment 1992 (IGAE) and Council of Australian Governments' Heads of Agreement on Commonwealth and State Roles and Responsibilities for the Environment 1997, the parties committed to working together across shared responsibilities to protect and conserve Australia's environment.
- 3 Both the Commonwealth and the State of Queensland are committed to cooperative efforts to strengthen intergovernmental cooperation on the environment and to minimise costs to business while maintaining high environmental standards.
- 4 The parties agree to pursue a comprehensive approvals bilateral agreement that will provide accreditation for the broadest range of approvals possible under the *Environment Protection and Biodiversity Conservation Act 1999*, subject to statutory requirements.
- 5 The specific objects of this agreement are to:
 - (a) protect the environment, and ensure high environmental standards in accordance with the requirements of the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (b) promote the conservation and ecologically sustainable use of natural resources;
 - (c) ensure an efficient, timely and effective process for environmental assessment and approval of actions; and
 - (d) remove duplication in environmental assessments through accreditation of Queensland processes by the Commonwealth.

PARTIES TO THE AGREEMENT

- 6 The parties to this agreement are the State of Queensland and the Commonwealth.

TERM OF AGREEMENT

- 7 This agreement commences on signature and continues unless terminated or suspended in accordance with the *Environment Protection and Biodiversity Conservation Act 1999*.

Note: Subsection 65(2) of the Environment Protection and Biodiversity Conservation Act 1999 requires the Commonwealth Environment Minister to cause a review of the operation of the agreement to be carried out at least once every five years while the agreement remains in effect.

NATURE OF THE AGREEMENT

- 8 This agreement is a bilateral agreement made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999*.
- 9 The parties do not intend this agreement to create contractual or other legal obligations between the parties, or that a breach of the agreement will give rise to any cause of action, or right to take legal proceedings, other than as provided for in the *Environment Protection and Biodiversity Conservation Act 1999*.
- 10 The parties will use their best endeavours to undertake the commitments in this agreement acting in a spirit of cooperation and consultation to achieve an efficient, timely and effective process for environmental assessment and decisions on whether to approve actions.
- 11 The parties agree to take steps to improve the efficiency and effectiveness of their own administrative processes to the greatest extent possible. This will include, but is not limited to the use of:
- (a) greater up-front guidance to industry;
 - (b) common streamlined generic Terms of Reference;
 - (c) standard outcome-focused conditions;
 - (d) Commonwealth officers outposted to Queensland and vice versa (with details to be outlined in the Administrative arrangements);
 - (e) increased data sharing across governments and provision of industry data from EIS to the public; and
 - (f) project control and monitoring mechanisms.

EFFECT OF THIS AGREEMENT

- 12 Certain actions in a class of actions do not require assessment under the *Environment Protection and Biodiversity Conservation Act 1999*
- 12.1 Pursuant to subsection 47(1) of the *Environment Protection and Biodiversity Conservation Act 1999*, it is declared that a proposed action in any of the classes of actions specified in Schedule 1 does not require assessment under Part 8 of the *Environment Protection and Biodiversity Conservation Act 1999*.
- 12.2 Subject to clause 12.3 and clause 13.1, clause 12.1 applies to actions which are proposed to be taken wholly within the State of Queensland including its coastal waters. In relation to actions taken in more than one jurisdiction (including Queensland), or which are taken in Queensland but have relevant impacts in other jurisdictions, the parties agree to consult and use their best endeavours to reach agreement with other affected jurisdictions on an appropriate assessment process, such as that set out in Schedule 1 or specified in an agreed instrument.

- 12.3 Consistent with section 49 of the *Environment Protection and Biodiversity Conservation Act 1999*, the parties note that the provisions of this bilateral agreement do not have any effect in relation to an action proposed within a Commonwealth area or an action by the Commonwealth or a Commonwealth agency.
- 12.4 Without limiting clause 12.2 and subject to clause 12.3 and 13.1, clause 12.1 applies to actions on land or in state waters that may impact on a matter protected by Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* including proposed actions:
- (a) that are within the Great Barrier Reef Marine Park; or
 - (b) in relation to which a subsection of section 23, 24A, 24B or 24C of the *Environment Protection and Biodiversity Conservation Act 1999* is a controlling provision; or
 - (c) that are nuclear actions, except for the actions identified in section 140A(a)-(d) of the *Environment Protection and Biodiversity Conservation Act 1999*:
 - a. A nuclear fuel fabrication plant;
 - b. A nuclear power plant;
 - c. An enrichment plant;
 - d. A reprocessing facility.

Note: Subsection 49(1A) of the Environment Protection and Biodiversity Conservation Act 1999 provides that: 'A provision of a bilateral agreement does not have any effect in relation to an action in the Great Barrier Reef Marine Park, unless the agreement expressly provides otherwise (Item 11, Part 1, Schedule 4 of the Great Barrier Reef Marine Park and Other Legislation Amendment Act 2008).'

13 Commonwealth Minister may determine that a particular action is not within a class of action

- 13.1 The Commonwealth Environment Minister may determine that a particular action is not within a class of action to which clause 12.1 applies.
- 13.2 The Commonwealth Environment Minister cannot make a decision under subclause 13.1 that an action is not within a class of action to which clause 12.1 applies, after the Queensland Minister has given notice under subclause 17.2.

Note: It is intended that this power would only be exercised in limited circumstances where the Minister determines that assessment of a particular action under the bilateral agreement would be more appropriately undertaken by the Commonwealth.

14 Queensland to ensure that impacts on matters that are not of national environmental significance are assessed

- 14.1 This clause applies to an action that:
- (a) is a controlled action (as determined by the Commonwealth Environment Minister) taken or proposed to be taken in Queensland;
 - (b) does not require assessment under Part 8 of the *Environment Protection and Biodiversity Conservation Act 1999* if an assessment is conducted in accordance with Schedule 1 of this agreement; and
 - (c) is an action:
 - (i) taken or proposed to be taken by a constitutional corporation; or

- (ii) taken by a person for the purposes of trade or commerce between Australia and another country, between two States, between a State and a Territory, or between two Territories; or
 - (iii) whose regulation is appropriate and adapted to give effect to Australia's obligations under an agreement with one or more other countries.
- 14.2 The Commonwealth undertakes that the written notice referred to in clause 16.2 will indicate:
 - (a) whether the Commonwealth believes that the action covered by the notice is an action to which this clause applies; and
 - (b) if so, which of paragraphs (i)-(iii) in clause 14.1(c) applies to the action.
- 14.3 The State of Queensland undertakes to ensure that the environmental impacts that the action has, will have, or is likely to have (other than the relevant impacts) are assessed to the greatest extent practicable.
- 14.4 The parties agree that 'greatest extent practicable' in clause 14.3 is satisfied where the assessment has been undertaken in a specified manner of assessment in Schedule 1.
- 15 Proponent Service Delivery Charter
- 15.1 The parties agree to determine at the commencement of the assessment process key deliverables, assessment methodologies, milestones, and contact personnel for each party. To this end, the parties agree to establish a Proponent Service Delivery Charter for each assessment project in the manner set out in the Administrative arrangements.

PROCEDURES

- 16 Commonwealth to inform Queensland of decision about whether an action is a controlled action
- 16.1 This clause applies to an action that is:
 - (a) subject of a referral to the Commonwealth Environment Minister under the *Environment Protection and Biodiversity Conservation Act 1999*; and
 - (b) is proposed to be taken in Queensland.
- 16.2 The Commonwealth Environment Minister must notify the Queensland Environment Minister of every action that is a controlled action proposed to be taken in Queensland within 10 business days of the Minister deciding that the action is controlled.
- 16.3 The State of Queensland will use its best endeavours to inform proponents that an action may trigger the *Environment Protection and Biodiversity Conservation Act 1999* and that an accredited assessment process may be available.
- 17 Notification by Queensland that an accredited process will apply
- 17.1 This clause applies where:

- (a) the Commonwealth Environment Minister has notified the Queensland Environment Minister that an action proposed to take place in Queensland is a controlled action; and
 - (b) the action does not require assessment under Part 8 of the *Environment Protection and Biodiversity Conservation Act 1999* if assessed in the manner specified in Schedule 1 to this agreement.
 - 17.2 The State of Queensland will provide written notice in accordance with the Administrative arrangements, to the Commonwealth Environment Minister to confirm whether the action will be assessed in accordance with a manner of assessment specified in Schedule 1 to this agreement.
 - 17.3 The State of Queensland will provide the notice mentioned in clause 17.2 within 10 business days.
 - 17.4 If the Coordinator-General proposes to undertake an assessment by Impact Assessment Report (IAR) as set out in Part 4 of the *State Development and Public Works Organisation Act 1971*, the State of Queensland must include in the notice referred to in clause 17.2 a statement that the Coordinator-General proposes to use such an assessment approach and give the Commonwealth Environment Minister an opportunity (of no less than 10 business days) to ask that another assessment approach be used. If, within 10 business days, the Commonwealth Environment Minister asks that another assessment approach be used, the State of Queensland must assess the action in accordance with the manner of assessment specified in Schedule 1 under Class 2 as is applicable to an action in respect of which the Commonwealth Environment Minister has requested an alternative assessment approach under this clause 17.4.
- Note: If this clause 17.4 is not complied with, then Class 2, Item 2.2(c) of Schedule 1 would have the effect that the proposed action would not be an action in any of the classes of actions specified in Schedule 1 for the purpose of clause 12.1.*
- 18 Consultation with the Commonwealth Environment Minister on Terms of Reference, Assessment Documentation, and draft Assessment Report
 - 18.1 The State of Queensland will use standard Terms of Reference that have been agreed with the Commonwealth. In the absence of agreed standard Terms of Reference, or if there is a need to make substantial modifications for a project, Queensland will consult with the Commonwealth.
 - 18.2 A draft Assessment Report will be provided once to the Commonwealth for comment and both parties will endeavour, to the greatest extent possible, to agree on a proposed set of common outcome-focused conditions.
 - 18.3 The State of Queensland may seek advice on relevant matters from Commonwealth agencies with relevant expertise (including but not limited to the Great Barrier Reef Marine Park Authority and the Supervising Scientist under the *Environment Protection (Alligator Rivers Region) Act 1978* (Cth)) with details to be outlined in the Administrative arrangements.
 - 18.4 The State of Queensland will ensure that the draft Assessment Report is provided to the Commonwealth as a specific chapter on matters of national environmental significance.

- 18.5 The Commonwealth will provide advice on the adequacy of information contained in, the draft Terms of Reference, Assessment Documentation, and draft Assessment Report to the State of Queensland in accordance with the timeframes in the Administrative arrangements. The intention of this clause is to ensure that the assessment requirements for the matters of national environmental significance which are covered by a controlling provision for the action are taken into account as early as possible during the preparation of any Terms of Reference and Assessment Documentation, and prior to the preparation of the draft Assessment Report.
- 18.6 If the State of Queensland believes that the requirements of clause 18.5 cannot be met, then the State of Queensland will provide the earliest possible written notification to the Commonwealth of such matters, seeking the Commonwealth to complete this work.

Response to draft Assessment Report

- 18.7 After receiving a copy of the draft Assessment Report, the Commonwealth Environment Minister will provide advice within the specified timeframe as to whether it provides the required information for the Commonwealth Minister to make an *Environment Protection and Biodiversity Conservation Act 1999* decision. If the Commonwealth Environment Minister decides that further information is required, it will be specified within the same timeframe. The State of Queensland will then either:
- (a) provide the information;
 - (b) ask the Commonwealth to progress the outstanding work; or
 - (c) proceed to finalise the report notwithstanding the advice; if (c) is chosen the State of Queensland will provide 7 days notice which will allow the dispute resolution process to be implemented.
- 18.8 If the Commonwealth does not respond within the particular timeframes specified in the Administrative arrangements it is taken that the Commonwealth has no additional requirements.

19 Final Assessment Report

- 19.1 The State of Queensland undertakes that when an action is assessed in the manner specified in Schedule 1 of this agreement it will:
- (a) provide a copy of the final Assessment Report to the Commonwealth Environment Minister on the date on which the Report is given to the proponent under section 34D or 34L of the *State Development and Public Works Organisation Act 1971*, section 57 of the *Environmental Protection Act 1994* and / or section 700 of the *Sustainable Planning Act 2009*; and
 - (b) provide copies of the information about the relevant impacts of the action to the Commonwealth Environment Minister not more than 10 business days after the date on which the Assessment Report is provided to the Queensland approval authority.
- 19.2 The State of Queensland will ensure the final Assessment Report is provided and contains a specific chapter on those matters of national environmental significance which are covered by a controlling provision for the action.

19.3 The State of Queensland may, when it provides the final Assessment Report referred to in clause 19.1, provide additional information on social and economic matters (only where the provision of this information does not breach privacy or commercial in confidence information requirements) if such information may be relevant to the Commonwealth Environment Minister's decision whether to approve the action under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999*.

20 Additional information

If, in deciding whether to approve the taking of a proposed action assessed under this agreement, the Commonwealth Environment Minister uses any information described in sub-section 136(2)(e) of the *Environment Protection and Biodiversity Conservation Act 1999*, the Commonwealth Environment Minister undertakes to provide a copy of this information to the relevant Queensland Minister. The intention of this clause is to give the State of Queensland an opportunity to comment on the accuracy of this information before the Commonwealth Environment Minister decides whether or not to approve the taking of the action, subject to the requirements of section 130 of the *Environment Protection and Biodiversity Conservation Act 1999* relating to the time period within which the Commonwealth Environment Minister must decide whether to approve the action.

21 Conditions attached to an approval

The parties agree to avoid inconsistent conditions of approvals for an action assessed under this agreement and Queensland legislation. To this end, the parties:

- (a) note the provisions of section 134 of the *Environment Protection and Biodiversity Conservation Act 1999*, which include a requirement for the Commonwealth Environment Minister to consider any relevant State conditions when deciding whether to attach a condition to an approval;
- (b) agree to consult on the conditions to be attached to approvals granted by either party;
- (c) agree on the objective of imposing a single set of outcome-focused conditions for an approval of an action affecting matters of national environmental significance;
- (d) agree to avoid, to the greatest extent possible, the need for additional conditions imposed by the Commonwealth Environment Minister in approving an action under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
- (e) agree to inform one another before varying conditions attached to an approval for an action, where the condition relates to, or affects, a matter protected by Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999*. The parties also agree to advise one another of any such variation after it has been made.

22 Monitoring compliance with conditions

22.1 This clause applies where an action:

- (a) is taken in Queensland;

- (b) requires the approval of the Commonwealth Environment Minister under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999*, and
 - (c) requires approval (however described) under Queensland legislation.
- 22.2 The parties agree to cooperate in monitoring compliance with conditions attached to approvals, with the aim of reducing duplication. To this end the parties agree:
 - (a) that each party will inform the other of any conditions attached to an approval(s) to take an action assessed under this agreement; and
 - (b) that parties put complementary arrangements in place for monitoring compliance with conditions on any action subject to the legal requirements of the parties. The aim of these arrangements is to ensure that reporting and compliance activities, including site inspections are, to the extent practicable, consistent and effective.
- 23 Enforcing conditions on approvals

The parties agree to inform one another, as soon as practicable, of any action to prosecute a person for breaching conditions of an approval for an action assessed under this agreement, where the conditions relate to, or affect, a matter protected by Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999*.
- 24 Administrative arrangements

The parties agree to jointly develop Administrative arrangements to ensure that the requirements of this agreement are administered efficiently, and with regular oversight by senior officials, in accordance with their separate legal requirements. The parties will develop arrangements which will allow proponents to simultaneously satisfy both requirements under both the *Environment Protection and Biodiversity Conservation Act 1999* and relevant State legislation.

MAINTAINING THIS AGREEMENT

- 25 Monitoring compliance with this agreement

The parties recognise that, under the Commonwealth *Auditor-General Act 1997*, the Commonwealth Auditor-General may audit the operation of the Commonwealth public sector (as defined in section 18 of that Act) in relation to this agreement.
- 26 Cancelling or suspending this agreement
 - 26.1 The parties note that under sections 57 – 64 of the *Environment Protection and Biodiversity Conservation Act 1999* the Commonwealth Environment Minister may cancel or suspend all or part of this agreement (either generally or in relation to actions in a specified class) under certain circumstances.
 - 26.2 The Commonwealth Environment Minister must cancel or suspend all or part of this agreement at the request of the relevant Queensland Minister if:
 - (a) the request is made on the grounds that the relevant Queensland Minister is not satisfied that the Commonwealth has complied or will comply with this agreement; or

- (b) the request is made on the grounds that the relevant Queensland Minister is not satisfied that the object of this agreement is being achieved; and
- (c) before making the request, the relevant Queensland Minister has informed the Commonwealth Environment Minister in writing of the reason(s) for requesting the cancellation or suspension and allowed a period of at least 20 business days for the Commonwealth Environment Minister to respond.

EXCHANGE OF INFORMATION

- 27 Each party agrees to share information for the purposes of the assessment and promptly comply with any reasonable request from the other party to supply information relating to the management or administration of assessments covered by this agreement.
- 28 Subject to permission of the owner to use and communicate the information, and subject to confidentiality requirements as determined by the party providing the data, the parties agree to make available to each other any appropriate and relevant data for the parties to meet their respective responsibilities relating to this agreement. The parties agree that data will remain the property of the owner and its use will be subject to such licence conditions as may be agreed. The parties agree that data will not be used or communicated to any other person without the permission of the owner.

CONFLICT RESOLUTION

- 29 In the event that a dispute arises under this agreement, the parties will settle it by direct negotiation using their best endeavours, acting in a spirit of cooperation. The parties agree that in the event of a dispute, discussions aimed at resolution will normally take place at officials level in the first instance prior to escalation in accordance with the arrangements specified in the Administrative arrangements.
- 30 The parties will notify and consult each other on matters that come to their attention that may improve the operation of this agreement.

RELEVANT PLANS AND AGREEMENTS

- 31 When preparing assessment reports on relevant impacts under this agreement, the State of Queensland agrees to take into account relevant agreements and plans. The parties agree that where the assessment process covers impacts on:
 - (a) World Heritage values of a World Heritage property, any management plan for the property is relevant;
 - (b) National Heritage values of a National Heritage place, any management plan for the property is relevant;
 - (c) the ecological character of a Ramsar wetland property, any management plan for the wetland is relevant;
 - (d) a listed threatened species or ecological community, any recovery plan for the species or community, and any threat abatement plan for a process that threatens the species or community is relevant; and
 - (e) a listed migratory species, any wildlife conservation plan for the species is relevant.

FREEDOM OF INFORMATION LEGISLATION

- 32 Subject to State and Commonwealth legislation, if either party receives any request from a third party, including under Freedom of Information legislation, for any documents originating from the other party which are not otherwise publicly available, the parties will consult on the release of those documents.
- 33 The parties recognise the need for expeditious consultation on such requests so that statutory obligations can be met without delay.

PUBLIC ACCESS TO ASSESSMENT DOCUMENTATION

- 34 The State of Queensland agrees that documentation about each assessment made under the manner specified in Schedule 1 will be available to the public, except where corresponding information would not have been available to the public if the action had been assessed under the *Environment Protection and Biodiversity Conservation Act 1999*.

GROUPS WITH PARTICULAR COMMUNICATION NEEDS

- 35 The State of Queensland or authorised decision-making body will, in giving effect to the requirements in Schedule 1, make special arrangements, if appropriate, to ensure that affected groups with particular communication needs have adequate opportunity to comment on actions assessed in the manner specified in Schedule 1.
- 36 The parties recognise the role and interests of Indigenous people in promoting conservation and ecologically sustainable use of natural resources. The parties note that Indigenous people affected by a proposed action may have particular communication needs, and will ensure, where appropriate, that affected Indigenous people have adequate opportunity to comment on actions assessed in the manner specified in Schedule 1 and in accordance with Queensland Indigenous consultation and engagement protocols set out in Protocols for consultation and negotiation with Aboriginal people and Min Mir Lo Ailan Mun: Proper Communication with Torres Strait Islander people.

NOTICE

- 37 A party giving notice or notifying under this agreement must do so in writing or by electronic communication.

DISCLOSURE OF INFORMATION

- 38 Notwithstanding any other provision of this agreement, the Department may disclose information about this agreement required to be reported by the Department.

INTERPRETATION

- 39 A reference in this agreement to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, the Queensland *State Development and Public Works Organisation Act 1971*, the Queensland *Environmental Protection Act 1994* or the Queensland *Sustainable Planning Act 2009* is a reference to the relevant Acts as in force at the date of the Amending Agreement No.45. If any of the Acts are subsequently amended in a manner that affects the operation of this agreement, then

the parties will as soon as practicable consult on whether it is necessary to make another bilateral agreement varying or replacing this agreement.

Note: Clause 4039 ~~4039~~ *Note: Clause 4039 means that the assessment processes accredited under this agreement are effectively 'frozen' as at the date of commencement of the Amending Agreement No. 45. Any changes that may occur to those relevant processes after the date of commencement of the agreement are not automatically accredited under the agreement.*

- 40 A reference in this agreement to an Act includes a reference to any regulations and instruments under that Act.
- 41 In this agreement, except where the contrary intention is expressed:
- (a) the terms used in this agreement have the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*;
 - (b) the singular includes the plural and vice versa, and a gender includes other genders;
 - (c) another grammatical form of a defined word or expression has a corresponding meaning;
 - (d) the meaning of general words is not limited by specific examples introduced by meaning of, for example or similar expressions;
 - (e) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement;
 - (f) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
 - (g) notes and headings are for convenient explanation or reference only and do not form part of this agreement or affect the meaning of the provision to which they relate.

PRIORITY OF AGREEMENT DOCUMENTS

- 42 If there is inconsistency between any of the documents forming part of this agreement, those documents will be interpreted in the following order of priority to the extent of any inconsistency:
- (a) this agreement;
 - (b) a Schedule; then
 - (c) the Administrative arrangements.

DEFINITIONS

- 43 In this agreement, except where the contrary intention is expressed, the following definitions are used:

Administrative arrangements mean the administrative arrangements made under clause 24 of this agreement;

Agreement means this bilateral agreement made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* between the Commonwealth and the State of Queensland;

Amending Agreement No. 45 means the amending bilateral agreement of that name, made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), and signed by the parties;

Assessment means assessment of the Relevant Impacts;

Assessment Report means the report prepared by the Coordinator-General under subsection 34D or 34L of the *State Development and Public Works Organisation Act 1971* (Qld), or by the Chief Executive under section 57 of the *Environmental Protection Act 1994* (Qld), or by the Chief Executive under section 697 of the *Sustainable Planning Act 2009* (Qld) (as the case may be);

Draft assessment report means the draft of the report prepared by the Coordinator-General under sub-section 34D or 34L of the *State Development and Public Works Organisation Act 1971*, or by the Chief Executive under section 57 of the *Environmental Protection Act 1994*, or by the Chief Executive under section 697 of the *Sustainable Planning Act 2009* (as the case may be), and is restricted to the chapter on impacts on MNES;

Chief Executive in Schedule 1, Class 3, has the same meaning as in the *Environmental Protection Act 1994*;

Chief Executive in Schedule 1, Class 1, has the same meaning as in the *Sustainable Planning Act 2009*;

Commencement Date means the date this agreement is executed by the parties or, if executed on separate days, the date on which this agreement is executed by the last party to do so;

Commonwealth means the Commonwealth of Australia;

Commonwealth Environment Minister means the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* or a delegate of the Minister;

Commonwealth marine area has the same meaning as in section 24 of the *Environment Protection and Biodiversity Conservation Act 1999*;

Coordinator-General has the same meaning as in the *State Development and Public Works Organisation Act 1971* (Qld);

Department means the Commonwealth Department of the Environment, or any other Commonwealth agency that administers this agreement from time to time;

Great Barrier Reef Marine Park has the same meaning as in the Commonwealth *Great Barrier Reef Marine Park Act 1975*;

Information includes data;

Matter of national environmental significance means a matter of national environmental significance protected by a provision of Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);

Nuclear action has the same meaning as in section 22(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);

Queensland Environment Minister means the Queensland Minister administering the *Environmental Protection Act 1994*;

Relevant Impacts, in relation to an action, has the same meaning as in section 82 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);

Relevant Queensland Minister means the Queensland Minister(s) responsible for administration of the Queensland Acts specified in Schedule 1 of this Agreement; and

Schedule means a schedule to this Agreement.

Signed for and on behalf of the State of
Queensland by:

Signed for and on behalf of the
Commonwealth by:

The Hon Andrew Powell MP
Minister for Environment and Heritage
Protection

The Hon Greg Hunt MP
Minister for the Environment

Date: ...

Date: ...

The Hon Jeff Seeney MP
Deputy Premier
Minister for State Development,
Infrastructure and Planning

Date: ...

This agreement was amended on

Schedule 1

Preamble

Subsection 47(1) of the *Environment Protection and Biodiversity Conservation Act 1999* provides that 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 of that Act.

Clause 12.1 of this agreement declares that an action in any of the classes of actions specified in this Schedule does not require assessment under Part 8 of the *Environment Protection and Biodiversity Conservation Act 1999*.

1. Classes of actions to which clause 12.1 applies

1.1 For clause 12.1 of this agreement, the classes of actions are:

- Class 1:** actions assessed under Chapter 9, Part 2 of the *Queensland Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009* and have been assessed in the manner specified in Item 2 of this Schedule, excluding actions in respect of which:
- (a) the Minister has, before the commencement of the Amending Agreement No. 45, made a decision under section 87 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
 - (b) the proponent has elected, in writing to the Department, to proceed with assessment under Part 8 of the *Environment Protection and Biodiversity Conservation Act 1999*.
- Class 2:** actions that are assessed under Part 4 of the *Queensland State Development and Public Works Organisation Act 1971* and the *State Development and Public Works Organisation Regulation ~~2010~~2020* and have been assessed in the manner specified in Item 2 of this Schedule, excluding actions in respect of which:
- (a) the Minister has, before the commencement of the Amending Agreement No. 45, made a decision under section 87 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
 - (b) the proponent has elected, in writing to the Department, to proceed with assessment under Part 8 of the *Environment Protection and Biodiversity Conservation Act 1999*.
- Class 3:** actions that are assessed under Part 1 of Chapter 3 of the *Queensland Environmental Protection Act 1994* and the *Environmental Protection Regulation ~~2008~~2019* and have been assessed in the manner specified in Item 2 of this Schedule, excluding actions in respect of which:
- (a) the Minister has, before the commencement of the Amending Agreement No. 45, made a decision under section 87 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
 - (b) the proponent has elected, in writing to the Department, to proceed with assessment under Part 8 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Class 4: actions that are assessed under an assessment process that was accredited under Schedule 1 of this agreement as it was immediately prior to the commencement of Amending Agreement No. 45 and which have been assessed in the manner specified in Item 2 of this Schedule, excluding actions in respect of which:

- (a) the Minister has, before the commencement of the Amending Agreement No. 45, made a decision under section 87 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
- (b) the proponent has elected, in writing to the Department, to proceed with assessment under Part 8 of the *Environment Protection and Biodiversity Conservation Act 1999*.

1.2 For the purposes of regulations made under section 50 of the *Environment Protection and Biodiversity Conservation Act 1999*, the manner of assessment specified in this Schedule under Class 1, 3 or 4 corresponds to assessment by environmental impact statement and meets the requirements of a public environment report under the *Environment Protection and Biodiversity Conservation Act 1999*.

1.3 For the purposes of regulations made under section 50 of the *Environment Protection and Biodiversity Conservation Act 1999*, the manner of assessment specified in this Schedule under Class 2 corresponds to assessment:

- (a) by environmental impact statement and meets the requirements of a public environment report under the *Environment Protection and Biodiversity Conservation Act 1999*, where the assessment is by:
 - (i) EIS under Part 4 of the *State Development Public Works Organisation Act 1971*; or
 - (ii) IAR under Part 4 of the *State Development Public Works Organisation Act 1971* and the Commonwealth Environment Minister has made a request under clause 17.4 in relation to that assessment; or
- (b) on preliminary documentation under Division 4 of Part 8 of the *Environment Protection and Biodiversity Conservation Act 1999*, where the assessment is by IAR under Part 4 of the *State Development Public Works Organisation Act 1971* and the Commonwealth Environment Minister has not made a request under clause 17.4 in relation to that assessment.

1.4 If the Commonwealth Minister makes a determination under clause 13.1 of the agreement in relation to a particular action, that particular action is taken as not being within Class 1, 2, 3 or 4 under this Schedule.

2. The Specified Manner of Assessment

For the purposes of item 1 of this Schedule, the specified manner of assessment is as follows.

Class 1 - Assessment under Chapter 9, Part 2 of the Queensland *Sustainable Planning Act 2009* and *Sustainable Planning Regulation 2009*

1. Law under which the assessment has been carried out

- 1.1 The assessment is carried out under Chapter 9, Part 2 of the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*.

2. The assessment approach

- 2.1 This assessment process is to be used where the proposed action:
- (a) is an action that is, or is proposed to be, the subject of a development application or is community infrastructure intended to be carried out on land proposed to be designated for the infrastructure under the *Sustainable Planning Act 2009*;
 - (b) is not declared by the Coordinator-General to be a ‘coordinated project’ for the purposes of section 26 of the *Queensland State Development and Public Works Organisation Act 1971* in circumstances prescribed by the *Sustainable Planning Regulation 2009*; and
 - (c) is not carried out under Part 1 of Chapter 3 of the *Environmental Protection Act 1994* and Chapter 2 of the *Environmental Protection Regulation 2008*2019.

3. Guidelines for assessment

- 3.1 A proponent for an action covered by the *Sustainable Planning Regulation 2009* under Part 6, section 32 must apply to the Chief Executive for terms of reference for an environmental impact statement for a development. In accordance with sections 691 or 692 of the *Sustainable Planning Act 2009*, the Chief Executive must prepare terms of reference that allow the purposes of the EIS to be achieved for the development. In accordance with the *Sustainable Planning Regulation 2009*, the terms of reference are designed to ensure that the assessment:
- (a) assesses all the relevant impacts of the action;
 - (b) provides enough information about the action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether to approve the action; and
 - (c) addresses the matters mentioned in Division 5.2 of the *Environment Protection and Biodiversity Conservation Regulations 2000* for an environmental impact statement.
- 3.2 The proponent must have:
- (a) been provided with submissions made by the public during the period that the draft EIS is released for public comments; and
 - (b) prepared a written response for inclusion in the EIS, which summarises or takes into account the issues raised by the public in submissions.

4. Assessment reports

- 4.1 The assessment report must provide enough information about the action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether or not to approve the action under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999*.
- 4.2 The EIS assessment report required under section 697 of the *Sustainable Planning Act 2009* must take into account the criteria mentioned in Schedule 1, Items 6.02 and 6.03 of the *Environment Protection and Biodiversity Conservation Regulations 2000*.

Class 2 - Assessment under Part 4 of the Queensland *State Development and Public Works Organisation Act 1971* and the *State Development and Public Works Organisation Regulation 2010*2020

1. Law under which the assessment has been carried out

- 1.1 The assessment is carried out under Part 4 of the *State Development and Public Works Organisation Act 1971* and the *State Development and Public Works Organisation Regulation 2010*2020.

2. The assessment approach

- 2.1 This assessment process is used where the Coordinator-General declares, for the purposes of section 26(1) of the *State Development and Public Works Organisation Act 1971*, that the proposed action is a coordinated project for which an environmental impact statement (EIS) is required, or a coordinated project for which an IAR is required, following compliance with clause 17.4 of this Agreement.
- 2.2 Where the Coordinator-General makes a determination under section 26(1) of the *State Development and Public Works Organisation Act 1971*, the Coordinator-General must:
- (a) have information that it considers to be sufficient to make the decision;
 - (b) consider criteria equivalent to the criteria set out in the guidelines (if any) issued under subsection 87(6) of the *Environment Protection and Biodiversity Conservation Act 1999* (to the extent relevant to the decision whether it is appropriate to a declaration that the project is a coordinated project for which an EIS or IAR is required); and
 - (c) if the Coordinator-General makes or has made a declaration under section 26(1)(b) that an IAR is required, ensure that the IAR includes an assessment of the relevant impacts and is assessed in accordance with any request from the Commonwealth Environment Minister referred to in clause 17.4 of this Agreement in connection with that assessment.

3. Guidelines for assessment

- 3.1 In preparing the terms of reference for an EIS, the Coordinator-General must ensure that the EIS will meet the requirement of sub-section ~~35~~7(1) of the *State Development and Public Works Organisation Regulation 2010*2020 and that the terms of reference are designed to ensure that the EIS:
- (a) assesses all relevant impacts that the action has, will have or is likely to have;
 - (b) provides enough information about the action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether or not to approve the action under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
 - (c) addresses the matters mentioned in Division 5.2 of the *Environment Protection and Biodiversity Conservation Regulations 2000* for an EIS.

3.1A In preparing the terms of reference for an EIS, the Coordinator-General must, if appropriate, seek public comment on the draft terms of reference in accordance with section 29(1)(b) of the *State Development and Public Works Organisation Act 1971*.

- 3.2 Where the assessment is by IAR and the Commonwealth Environment Minister has made a request under clause 17.4 of this Agreement in connection with that assessment, the Coordinator-General must issue to the proponent written guidelines for the

preparation of an IAR that are designed to ensure that the IAR addresses the matters mentioned in schedule 1 to the *State Development and Public Works Organisation Regulation 2010* (as if a reference in that schedule to an EIS were a reference to an IAR) and:

- (a) assesses all relevant impacts that the action has, will have or is likely to have;
- (b) provides enough information about the action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether or not to approve the action under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999*; and
- (c) addresses the matters mentioned in Division 5.2 of the *Environment Protection and Biodiversity Conservation Regulations 2000* for an EIS.

3.2A In preparing the written guidelines referred to in item 3.2, the Coordinator-General must, if appropriate, seek public comment on the draft written guidelines.

4. Inviting Public Comment

4.1 Where the assessment is by EIS the Coordinator-General must ensure that:

- (a) if appropriate, having regard to the objects and purposes of the *Environment Protection and Biodiversity Conservation Act 1999* and any comments from the Commonwealth Environment Minister, the draft terms of reference are made available to the public and released for public comment under sub-section 29(1)(b) of the *State Development and Public Works Organisation Act 1971*;
- (b) the final terms of reference is made available to the public;
- (c) the draft EIS is made available to the public and released for public notification under section 33 of the *State Development and Public Works Organisation Act 1971*;
- (d) the period set by the Coordinator-General under sub-section 33(1)(d) during which a submission may be made on the draft EIS is at least 28 days; and
- (e) a notice advertising of the availability of the documents is placed in newspapers circulating generally in each State and self-governing Territory and published on a website that is approved by the Coordinator-General and linked to the Commonwealth Department of Environment website. The notice must meet the criteria mentioned in Schedule 1, Item 7.04 of the *Environment Protection and Biodiversity Conservation Regulations 2000*.

4.2 Where the assessment is by IAR and no request has been made by the Commonwealth Environment Minister under clause 17.4 of this Agreement in connection with that assessment, the Coordinator-General must ensure that:

- (a) a draft IAR, that describes:
 - (i) the proposed action;
 - (ii) the likely relevant impacts of the action;
 - (iii) to the extent practicable, any feasible alternatives to the proposed action that could avoid or reduce relevant impacts; and
 - (iv) possible mitigation measures,

is made available to the public and released for public notification under section 33 of the *State Development and Public Works Organisation Act 1971*;

- (b) the period set by the Coordinator-General under sub-section 33(1)(d) during which a submission may be made on the draft IAR is at least 28 days; and
- (c) a notice advertising of the availability of the documents is placed in newspapers circulating generally in each State and self-governing Territory or published on a website that is approved by the Coordinator-General and linked to the Commonwealth Department of Environment website. The notice must meet the criteria mentioned in Schedule 1, Item 7.04 of the *Environment Protection and Biodiversity Conservation Regulations 2000*.

4.3 Where the assessment is by IAR and the Commonwealth Environment Minister has made a request under clause 17.4 of this Agreement in connection with that assessment, the Coordinator-General must ensure that:

- (a) a draft IAR, that addresses the written guidelines referred to paragraph 3.2 under Class 2, Item 2 of this Schedule 1, is made available to the public and released for public notification under section 33 of the *State Development and Public Works Organisation Act 1971*;
- (b) the period set by the Coordinator-General under sub-section 33(1)(d) during which a submission may be made on the draft IAR is at least 28 days; and
- (c) a notice advertising of the availability of the documents is placed in newspapers circulating generally in each State and self-governing Territory or published on a website that is approved by the Coordinator-General and linked to the Commonwealth Department of Environment website. The notice must meet the criteria mentioned in Schedule 1, Item 7.04 of the *Environment Protection and Biodiversity Conservation Regulations 2000*.

5. Responding to Public Submissions

5.1 Following public notification under section 33 of the *State Development and Public Works Organisation Act 1971*, and before accepting the draft EIS or draft IAR as a final EIS or final IAR, the Coordinator-General must provide the proponent with submissions made and require that the proponent submit a revised draft EIS under section 34B(2) or a revised draft IAR under section 34J(2) of the *State Development and Public Works Organisation Act 1971* so that the revised draft EIS or revised draft IAR considers and summarises or takes into account the issues raised by the public in submissions.

6. Assessment reports

6.1 The assessment report must provide enough information about the action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether or not to approve the action under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999*.

6.2 The EIS assessment report required under section 34D of the *State Development and Public Works Organisation Act 1971* must meet the criteria mentioned in Schedule 1, Item 6.02 and Item 6.03 of the *Environment Protection and Biodiversity Conservation Regulations 2000*.

6.3 The report prepared by the Coordinator-General evaluating the IAR required under section 34L of the *State Development and Public Works Organisation Act 1971* must meet the criteria mentioned in Schedule 1, Item 6.02 and Item 6.03 of the *Environment Protection and Biodiversity Conservation Regulations 2000*.

Class 3 - Preparation of an Environmental Impact Statement under Part 1 of Chapter 3 of the Queensland *Environmental Protection Act 1994* and the *Environmental Protection Regulation 2008*2019.

1. Law under which the assessment has been carried out

- 1.1 The assessment is carried out under Part 1 of Chapter 3 of the *Environmental Protection Act 1994* and Chapter 2 of the *Environmental Protection Regulation 2008*2019.

2. The assessment approach

- 2.1 This assessment process is used where the proposed action:

(a) is not subject to the Integrated Development Assessment System under the *Sustainable Planning Act 2009* and is subject to Chapter 3 of the *Environmental Protection Act 1994*, including:

- (i) an action that involves an interest in land in a protected area for which an EIS is required under sections ~~39A~~53 and ~~39B~~54 of the *Nature Conservation Act 1992*.

(b) is not declared by the Coordinator-General to be a 'coordinated project' under section 26 of the *State Development and Public Works Organisation Act 1971*.

3. Guidelines for assessment

- 3.1 When preparing the final terms of reference under section 46(1)(b) of the *Environmental Protection Act 1994*, the Chief Executive must ensure that the final terms of reference meets the criteria mentioned in Schedule 1, Item 4.03 of the *Environment Protection and Biodiversity Conservation Regulations 2000*.

4. Setting the public comment period

- 4.1 The Chief Executive specifies a submission period of at least 30 business days (which must end at least 20 business days after the EIS notice is published). This is the period during which a submission may be made by anyone about the EIS.

5. Assessment reports

- 5.1 The assessment report must provide enough information about the action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether or not to approve the action under Part 9 of the *Environment Protection and Biodiversity Conservation Act 1999*.

- 5.2 The EIS assessment report required under section 57 of the *Environmental Protection Act 1994* must meet the criteria mentioned in Schedule 1, Items 6.02 and 6.03 of the *Environment Protection and Biodiversity Conservation Regulations 2000*.

Class 4 - Actions that are assessed under an assessment process that was accredited under Schedule 1 of this agreement as it was immediately prior to the commencement of Amending Agreement No. 45

1. Specified manner

- 1.1 The specified manner is the relevant specified manner set out in Schedule 1 of this agreement as it was immediately prior to the commencement of Amending Agreement No. 45.