

## STATEMENT OF REASONS

### **Agreement between the Commonwealth of Australia and the New South Wales Government under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* relating to Environmental Impact Assessment**

I, Ian Gordon Campbell, Minister for the Environment and Heritage, provide the following reasons for my decision to enter into a bilateral agreement with New South Wales.

#### **Legislative power**

Section 45 of the EPBC Act authorises me, on behalf of the Australian Government, to enter into a bilateral agreement with a State, that is expressed to be a bilateral agreement and that provides for one or more of the following:

- protecting the environment;
- promoting the conservation and ecologically sustainable use of natural resources;
- ensuring an efficient, timely and effective process for environmental assessment and approval of actions; and
- minimising duplication of environmental assessment and approval process through Australian Government accreditation of State or Territory processes (or vice versa).

A bilateral agreement may declare that actions that have been assessed in a specified manner need not be assessed under Part 8 of the EPBC Act ('section 47 declaration'). My approval under Part 9 of the Act is still required before such an action can proceed.

#### **Consultation**

In accordance with section 49A of the EPBC Act, a draft of the New South Wales bilateral agreement was published on 4 and 8 November 2006 with an invitation for any person to comment. The comments received are described in the attached report. The comments were taken into account in the further negotiation of the New South Wales agreement and in making my decision to enter into the agreement.

#### **Reasons**

The bilateral agreement with New South Wales includes a section 47 declaration. The specified manner of assessment is set out in Schedule 1 to the agreement. It includes environmental assessment processes under the New South Wales *Environmental Planning and Assessment Act 1979*, *Threatened Species Conservation Act 1995* and the New South Wales *Fisheries Management Act 1994*, with additional criteria as described by Schedule 1.

I have concluded that the provisions of the bilateral agreement, and in particular the specified manner of assessment, will ensure that proper assessment of the relevant impacts of an action will take place, including adequate opportunity for public consultation and access to documents. I have concluded that the New South Wales bilateral agreement will minimise duplication between the Australian Government and New South Wales environmental assessment processes and ensure that assessment of proposed actions occur in a timely and efficient manner.

I am satisfied, therefore, that the New South Wales bilateral agreement contributes to all of the matters described in subsection 45(2) of the EPBC Act.

I am satisfied that the specified manner of assessment will ensure:

- that the impacts an action has, will have or is likely to have, on the matters protected by Part 3 of the EPBC Act will be assessed (subsection 47(2)); and
- that I will receive a report including, or accompanied by, enough information about those

impacts to let me make an informed decision whether or not to approve the action under Part 9 of the EPBC Act (subsection 47(4)).

I am satisfied that the bilateral agreement accords with the objects of the EPBC Act (set out in section 3 of the Act) (paragraph 50(a)).

In relation to the requirements of the *Environment Protection and Biodiversity Conservation Regulations 2000* (EPBC Regulations), I am satisfied that the New South Wales bilateral agreement:

- identifies each assessment approach and the approach under the EPBC Act to which it corresponds (regulation 3.02);
- provides for public access to assessment documentation (regulation 3.03), and
- provides for special arrangements for comment by particular needs groups (regulation 3.04).

I am satisfied that the specified manner of assessments meets the criteria mentioned in Schedule 1 to the EPBC Regulations (regulation 3.06).

I am satisfied that the New South Wales bilateral agreement is not inconsistent with Australia's obligations under any of the international agreements referred to in sections 51 to 54 of the EPBC Act. I am satisfied that the bilateral agreement will promote the management of National Heritage in New South Wales in accordance with Australian National Heritage management principles. I am satisfied that the agreement will promote the management of world heritage properties in New South Wales in accordance with the Australian World Heritage management principles. I am satisfied that the bilateral agreement will promote the management of wetlands in New South Wales in accordance with Australian Ramsar management principles. I am satisfied that it will promote the survival and/or enhance the conservation status of listed threatened species and listed threatened ecological communities and of listed migratory species.

I have considered the role and interests of indigenous peoples in promoting the conservation and ecologically sustainable use of natural resources in the context of the New South Wales bilateral agreement, taking into account Australia's relevant obligations under the Biodiversity Convention (paragraph 49A(c)).

#### **Material on which my decision was based**

The material on which I have based my decision to enter into the New South Wales agreement was:

- the content of the assessment bilateral agreement between the Australian Government and the New South Wales Government pursuant to section 45 of the EPBC Act;
- the provisions of the EPBC Act and the EPBC Regulations;
- the relevant provisions of the New South Wales *Environmental Planning and Assessment Act 1979*, *Threatened Species Conservation Act 1995* and *Fisheries Management Act 1994*;
- advice from my Department;
- comments and information provided by the New South Wales Government and Agencies in the course of negotiation of the bilateral agreement; and
- comments received on the draft agreement published on 4 and 8 November 2006, in accordance with section 49A of the EPBC Act.