

**AN 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**

Recital

- 1 This agreement amends the Principal Agreement. The Commonwealth Environment Minister has made a determination that he is satisfied that the amendments to the Principal Agreement that are contained in this Amending Agreement will not have a significant effect on the operation of the Principal Agreement.

Parties to the agreement

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

Commencement

- 3 This agreement commences:
- (a) immediately after commencement of Chapter 9, Part 2 of the *Sustainable Planning Act 2009*; or
 - (b) immediately after commencement of the *Sustainable Planning Regulation 2009*; or
 - (c) on signature by the last party to sign -
- whichever is latest.

Note: Chapter 9, Part 2 of the Sustainable Planning Act 2009 commences on 18 December 2009.

Amendments to the Principal Agreement

- 4 The amendments in this agreement are principally to reflect the repeal of the *Integrated Planning Act 1997* and commencement of the new *Sustainable Planning Act 2009*.
- 5 The parties agree that the processes for assessment by environmental impact statement under Chapter 9, Part 2 of the *Sustainable Planning Act 2009* are substantively the same as the processes under Chapter 5, Part 8 of the *Integrated Planning Act 1997*.
- 6 The parties agree to the amendments to the Principal Agreement set out below.
- 6.1 All references to '*Integrated Planning Act 1997*' are deleted and substituted with '*Sustainable Planning Act 2009*'.
- 6.2 All references to '*Integrated Planning Regulation*', '*Integrated Planning Regulation*', or '*Integrated Planning Regulation 1998*' are deleted and substituted with '*Sustainable Planning Regulation 2009*'.
- 6.3 In the note to Clause 8:
'26 November 2009' is deleted and substituted with '25 November 2009'.
- Note: this is a technical amendment to correct an error in the Principal Agreement relating to the date of commencement of the Great Barrier Reef Marine Park and Other Legislation Amendment Act 2008.*
- 6.4 In clause 14.1(a):
'section 5.8.13' is deleted and substituted with 'section 700'.
- 6.5 Clause 33 is deleted and substituted with:
'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 of December 2009. 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.

Notes:

1. The 'amending agreement of December 2009' means the amendment to this agreement made under section 56A of the *Environment Protection and Biodiversity Conservation Act 1999*, and signed by the parties in December 2009.

2. Clause 33 means that the assessment processes accredited under this agreement are effectively 'frozen' as at the date of commencement of the agreement. Any changes that may occur to those relevant processes after the date of commencement of the agreement are not automatically accredited under the agreement. Section 56A of the *Environment Protection and Biodiversity Act 1999* allows the Commonwealth Environment Minister to develop a draft amendment to the agreement if the Minister is satisfied that the amendment will not have a significant effect on the operation of the agreement and the Minister makes a written determination to that effect.

6.6 In clause 37:

'section 5.8.10' is deleted and substituted with 'section 697'.

6.7 In Schedule 1:

All references to 'Chapter 5, Part 8' are deleted and substituted with 'Chapter 9, Part 2'.

Under the heading Class 1 (paragraph 3):

'section 5.8.1' is deleted and substituted with 'Part 6, section 32';

'sections 5.8.4 and 5.8.5' is deleted and substituted with 'sections 691 and 692'.

Under the heading Class 3, after paragraph 2.1(i): 'and' is deleted and new subparagraph (ia) is inserted:

'(ia) a chapter 5A activity for which an EIS is required under sections 310E and 310V of the *Environmental Protection Act 1994*; and'.

Nature of the Agreement

7 This agreement is an Amending Agreement for the purposes of section 56A of the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*.

Transitional Arrangements

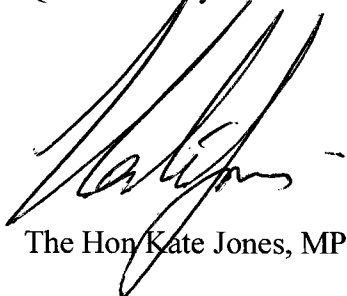
8 For every action that is being assessed under Chapter 5, Part 8 of the *Integrated Planning Act 1997* immediately before the *Integrated Planning Act 1997* is repealed by the *Sustainable Planning Act 2009*, and that will continue to be assessed under the repealed *Integrated Planning Act 1997* because of section 802 of the *Sustainable Planning Act 2009*, and for which the Queensland Minister has given notice to the Commonwealth Minister under clause 12.2 of the Principal Agreement confirming that the action will be assessed in accordance with a manner of assessment specified in Schedule 1 to the Principal Agreement, the Principal Agreement will continue to apply in relation to the action as if the Principal Agreement was not amended by this agreement.

Note: this is a transitional provision to ensure that actions being assessed under the Integrated Planning Act 1997 at the time of its repeal can continue to be assessed for the purposes of the Environment Protection and Biodiversity Conservation Act 1999 in accordance with the bilateral agreement.

Interpretation

- 9 A reference in this agreement to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* is a reference to the relevant Act as in force at the date of this agreement.
- 10 A reference in this agreement to the *Integrated Planning Act 1997* is a reference to that Act as in force immediately before being repealed by the *Sustainable Planning Act 2009*.
- 11 Unless the contrary intention appears, the terms used in this agreement have the same meaning as in the Principal Agreement.
- 12 **Principal Agreement** means the bilateral agreement between the Commonwealth and the State of Queensland under section 45 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* relating to environmental assessment, which commenced on 11 August 2009.

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

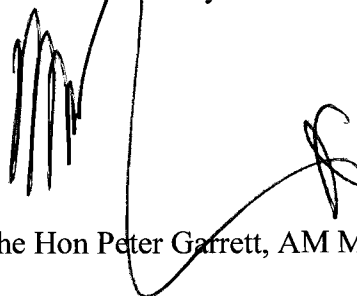


The Hon Kate Jones, MP

Minister for Climate Change and Sustainability

Date: 4 Dec 09

Signed for and on behalf of the Commonwealth by:



The Hon Peter Garrett, AM MP

Minister for the Environment, Heritage and the Arts

Date: 17 December 2009