

**AN 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 This agreement aims to minimise 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 therefore enable the Commonwealth to rely primarily on the Queensland assessment processes set out in Schedule 1 in assessing actions under the *Environment Protection and Biodiversity Conservation Act 1999*.
- 2 The specific objects of this agreement are 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 and approval of actions; and
 - (d) minimise duplication in the environmental assessment through accreditation of Queensland processes by the Commonwealth.

Parties to the agreement

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

Term of agreement

- 4 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

- 5 This agreement is a bilateral agreement made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999*.
- 6 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*.

Effect of this agreement

- 7 Certain actions in a class of actions do not require assessment under the Environment Protection and Biodiversity Conservation Act 1999
- 7.1 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*.
- 7.2 Subject to clause 8 and subclause 9.1, clause 7.1 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.
- 7.3 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 in a Commonwealth area or an action by the Commonwealth or a Commonwealth agency.
- 8 For each action which the Commonwealth Environment Minister decides is a controlled action under the EPBC Act, the Commonwealth Minister may determine that this agreement has effect in relation to the action in the Marine Park that is not part of a Commonwealth area.

Note: Subsection 49(1A) of the Environment Protection and Biodiversity Conservation Act 1999 commences on 26 November 2009 and 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).

- 9 Commonwealth Minister may determine that a particular action is not within a class of action
- 9.1 The Commonwealth Environment Minister may determine that a particular action is not within a class of action to which clause 7.1 applies.
- 9.2 The Commonwealth Environment Minister cannot make a decision under subclause 9.1 that an action is not within a class of action to which clause 7.1 applies, after the Queensland Minister has given notice under subclause 12.2.

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.

- 10 Queensland to ensure that impacts on matters that are not of national environmental significance are assessed
- 10.1 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.
- 10.2 The Commonwealth undertakes that the written notice referred to in clause 11.2 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 10.1(c) applies to the action.
- 10.3 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.
- 10.4 The parties agree that 'greatest extent practicable' in clause 10.3 is satisfied where the assessment has been undertaken in a specified manner of assessment in Schedule 1.

Procedures

- 11 Commonwealth to inform Queensland of decision about whether an action is a controlled action
- 11.1 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.
- 11.2 The Commonwealth Environment Minister must notify the Queensland Minister of every action that is a controlled action proposed to be taken in Queensland.
- 12 Notification by Queensland that an accredited process will apply
- 12.1 This clause applies where:
- (a) the Commonwealth Environment Minister has notified the Queensland 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.

12.2 The State of Queensland will provide written notice in accordance with relevant 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.

12.3 The State of Queensland will use its best endeavours to provide the notice mentioned in clause 12.2 as soon as practicable within 10 business days.

13 Consultation with the Commonwealth Environment Minister on Terms of Reference etc

The State of Queensland undertakes to use its best endeavours to obtain the Commonwealth Environment Minister's agreement on any Terms of Reference and assessment documentation (i.e. Environmental Impact Statement) prepared for the purposes of an assessment of an action to which this agreement applies, before finalising any such documents for the purposes of the relevant assessment process.

14 Assessment reporting

14.1 The State of Queensland undertakes that, as soon as practicable when an action is assessed in the manner specified in Schedule 1 of this agreement it will:

(a) provide a copy of the Assessment Report or part thereof which addresses the relevant impacts of the action, to the Commonwealth Environment Minister on the date on which the Report is given to the proponent under section 35 of the *State Development and Public Works Organisation Act 1971*, section 57 of the *Environmental Protection Act 1994* and section 5.8.13 of the *Integrated Planning Act 1997*; and

(b) provide copies of the information about the relevant impacts of the action to the Commonwealth Environment Minister as soon as reasonably practicable (and in any event not more than ten business days) after the date on which the Assessment Report is provided to the Queensland Minister.

14.2 The State of Queensland may, when it provides the Assessment Report referred to in clause 14.1, 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*.

15 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 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.

16 Conditions attached to an approval

The parties recognise the desirability of avoiding, to the extent practicable, inconsistent conditions of approvals for an action assessed under this agreement and Queensland legislation. To this end, the parties:

- (a) agree where practicable to consult on the conditions to be attached to approvals granted by either party;
- (b) 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; and
- (c) agree to inform one another wherever practicable 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.

17 Monitoring compliance with conditions

17.1 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.

17.2 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.

18 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*.

19 Administrative procedures

The parties agree to jointly develop administrative procedures to ensure that the requirements of this agreement are administered efficiently in accordance with their separate legal requirements. Where possible 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

20 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.

21 Cancelling or suspending this agreement

21.1 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.

21.2 The Commonwealth Environment Minister must cancel or suspend all or part of this agreement at the request of the Queensland Minister if:

- (a) the request is made on the grounds that the 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 Queensland Minister is not satisfied that the object of this agreement is being achieved; and
- (c) before making the request, the 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 twenty business days for the Commonwealth Environment Minister to respond.

Exchange of information

22 Each party agrees to 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.

23 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

- 24 In the event that any 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.
- 25 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

- 26 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

- 27 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.
- 28 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

- 29 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

- 30 The State of Queensland or authorised decision-making body will, in giving effect to the requirements in Schedule 1, require proponents within the State's capacity to do so, to 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. 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*.

Funding

- 31 The parties agree that, twelve months after the commencement of this agreement, and every twelve months thereafter, they may review the additional implementation costs that Queensland may have incurred during the relevant twelve month period of this agreement. The Commonwealth agrees to reimburse Queensland the additional implementation costs.
- 32 In clause 31, the additional implementation costs are the costs that the Commonwealth and Queensland agree:
- a) have been incurred by Queensland in implementing this agreement; and
 - b) would not, in the absence of this agreement, have been incurred by Queensland in carrying out an adequate assessment of each action to which Schedule 1 applies.

Interpretation

- 33 A reference in this agreement to the *Environment Protection and Biodiversity Conservation Act 1999*, the *Queensland State Development and Public Works Organisation Act 1971* or the *Queensland Environmental Protection Act 1994* is a reference to the relevant Acts as in force at the date this agreement commences. A reference in this agreement to the *Integrated Planning Act 1997* is a reference to that Act as in force immediately before the commencement of this agreement for actions specified in Class 1 of Schedule 1. 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 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.

- 34 A reference in this agreement to an Act includes a reference to any regulations and instruments under that Act.
- 35 Unless the contrary intention appears, the terms used in this agreement have the same meaning as in the *Environment Protection and Biodiversity Conservation Act 1999*.
- 36 **Assessment** means assessment of the relevant impacts. ("Relevant impacts" is defined in section 82 of the *Environment Protection and Biodiversity Conservation Act 1999*.)
- 37 **Assessment Report** means the report prepared by the Coordinator-General under sub-section 35(3) 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 5.8.10 of the *Integrated Planning Act 1997* (as the case may be) to the extent it addresses the relevant impacts of a controlled action assessed in the manner specified in Schedule 1.
- 38 **Chief Executive** in Schedule 1, Class 3, has the same meaning as in the *Environmental Protection Act 1994*.
- 39 **Chief Executive** in Schedule 1, Class 1, has the same meaning as in the *Integrated Planning Act 1997*.
- 40 **Commonwealth Environment Minister** means the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* or a delegate of the Minister.
- 41 **Coordinator-General** has the same meaning as in the *State Development and Public Works Organisation Act 1971*.
- 42 **Queensland Minister** means the Queensland Minister administering the *Environmental Protection Act 1994*.
- 43 **Marine Park** has the same meaning as in the *Great Barrier Reef Marine Park Act 1975*.

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

Signed for and on behalf of the
Commonwealth by:

The Hon Kate Jones, MP

The Hon Peter Garrett, AM MP

Minister for Climate Change and
Sustainability

Minister for the Environment,
Heritage and the Arts

Date:

Date:

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 7.1 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 7.1 applies

1.1 For clause 7.1 of this agreement, the classes of actions are:

- Class 1:** actions assessed under Chapter 5, Part 8 of the *Queensland Integrated Planning Act 1997* and the *Integrated Planning Regulation 1998* and have been assessed in the manner specified in Item 2 of this Schedule;
- Class 2:** projects 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 1999* and have been assessed in the manner specified in Item 2 of this Schedule; and
- 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* and have been assessed in the manner specified in Item 2 of this Schedule.

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, 2 or 3 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*.

If the Commonwealth Minister makes a determination under clause 9.1 of the agreement in relation to a particular action, that particular action is taken as not being within Class 1, 2 or 3 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 5, Part 8 of the Queensland *Integrated Planning Act 1997* and *Integrated Planning Regulation 1998*

1. Law under which the assessment has been carried out

The assessment is carried out under Chapter 5, Part 8 of the *Integrated Planning Act 1997* and the *Integrated Planning Regulation 1998*.

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 *Integrated Planning Act 1997*;

- (b) is not declared by the Coordinator-General to be a 'significant project' for the purposes of section 26 of the *Queensland State Development and Public Works Organisation Act 1971* in circumstances prescribed by the *Integrated Planning Regulation*; 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*.

3. Guidelines for assessment

A proponent for an action covered by the *Integrated Planning Regulation* under s5.8.1, must apply to the Chief Executive for terms of reference for an EIS for a development. In accordance with sections 5.8.4 or 5.8.5 of the *Integrated Planning Act 1997*, 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 *Integrated Planning Regulation*, the terms of reference are designed to ensure that the assessment:

- (a) assesses all the relevant impacts of the action; and
- (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.

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*.

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 1999*

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 1999*.

2. The assessment approach

2.1 This assessment process is used where the Coordinator-General declares, for the purposes of section 26 of the *State Development and Public Works Organisation Act 1971*, that the proposed action is a significant project for which an environmental impact statement (EIS) is required.

3. Guidelines for assessment

3.1 In preparing the terms of reference, the Coordinator-General must ensure that the EIS will meet the requirement of sub-section 16(1) of the *State Development and Public Works Organisation Regulation 1999* and 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 environmental impact statement.

4. Inviting Public Comment

The Coordinator-General must specify a comment and submission period (whichever is relevant) for the terms of reference and draft EIS of at least 28 calendar days and ensure that a notice advertising of the availability of the documents is placed in newspapers circulating generally in each State and self-governing Territory. The notice must include a brief description and the location of the action and the relevant matters protected under Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999*.

5. Responding to Public Submissions

- 5.1 The proponent prepares a revised version of the draft statement or the draft statement and a supplement to the draft statement.

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*.

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*.

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*.

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 *Integrated Planning Act 1997* and is subject to Chapter 3 of the *Environmental Protection Act 1994*, including:
 - (i) a mining activity for which an EIS is required under sections 162, 163 or 248 of the *Environmental Protection Act 1994*; and
 - (ii) an action that involves an interest in land in a protected area for which an EIS is required under sections 39A and 39B of the *Nature Conservation Act 1992*; and
 - (b) is not declared by the Coordinator-General to be a 'significant project' under section 26 of the *State Development and Public Works Organisation Act 1971*.

3. Setting the public comment period

- 3.1 The Chief Executive specifies a submission period of at least 20 business days (which must end at least 20 business days after the EIS notice is published) or 28 days (specified under the *Environment Protection and Biodiversity Conservation Act 1999*) whichever is the longer. (This is the period during which a submission may be made by anyone about the EIS).

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*.