

**AN AGREEMENT BETWEEN THE COMMONWEALTH OF
AUSTRALIA AND THE STATE OF WESTERN AUSTRALIA**

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

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

Recital

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

- 1 The parties to this agreement are the State of Western Australia and the Commonwealth of Australia.

Amendments to the Principal Agreement

- 2 The parties agree to the amendments to the Principal Agreement set out below.

- 2.1 Clause 4 and 5 of the Principal Agreement are deleted and substituted with:

- 4 The Agreement will expire thirty years after it was entered into on 16 August 2002, noting that a review of the operation of the agreement must be carried out at least once every five years while the agreement remains in effect.

- 2.2 Subclause 10.2 of the Principal Agreement is deleted and substituted with a new subclause:

- 13.3 Western Australia notes that the Commonwealth Environment Minister must decide whether or not to approve an action assessed under this agreement, and to attach any conditions to an approval, within 30 business days after receiving an Assessment Report from Western Australia which contains sufficient information to make an informed decision.

Subclause 10.2 is no longer needed as the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* no longer requires a notice under section 130(1B) to be provided in order for the time to commence for the Commonwealth Environment Minister to make a decision on approval.

- 2.3 Clause 21 of the Principal Agreement is deleted and substituted with:

20 Reviewing the agreement

- 20.1 The Commonwealth Environment Minister is required by section 65 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* to cause a review of the operation of this agreement to be carried out at least once every five years while the agreement remains in effect, and give a copy of each report of the review to the Western Australian Minister.

- 20.2 The parties agree that:

- (a) each review of this agreement under section 65 will be carried out jointly by the Commonwealth Department of the Environment and Water Resources and the relevant Western Australian agency;
- (b) each review will evaluate the operation of the agreement against the aim of the agreement; and

(c) the views of key stakeholders will be sought as part of each review.

2.4 A new clause 21 is inserted after the substituted clause 20:

21 Minor amendments to the agreement

21.1 The parties note that section 56A of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that the Commonwealth Environment Minister may make a written determination that the Commonwealth Environment Minister intends to develop a draft amendment to a bilateral agreement, where the Commonwealth Environment Minister is satisfied that the amendment will not have a significant effect on the operation of the bilateral agreement. Section 56A of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* also sets out a publication requirement where the Commonwealth Environment Minister makes a determination.

21.2 Prior to making such a determination the Commonwealth Environment Minister must reach agreement with the Western Australian Minister on the wording of the amendment.

2.5 The clauses in the Principal Agreement are renumbered to take account of the amendments, with corresponding amendments made in Schedule 1, and

2.6 Clause 27 of the Principal Agreement is amended by inserting a new subclause 27(b):

(b) National Heritage values of a National Heritage place, any management plan for the place is relevant; or

Nature of the agreement

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

Interpretation

4 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.

5 Unless the contrary intention appears, the terms used in this agreement have the same meaning as in the Principal Agreement.

6 **Principal Agreement** means the bilateral agreement between the Commonwealth and the State of Western Australia under section 45 of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* relating to environmental impact assessment, which commenced on 16 August 2002.

Signed for and on behalf of the
COMMONWEALTH OF
AUSTRALIA by:

SIGNED

The Hon Malcolm Turnbull MP
Minister for the Environment and Water
Resources

Date: 1 August 2007

Signed for and on behalf of
WESTERN AUSTRALIA by:

SIGNED

The Hon David Templeman MLA
Minister for the Environment

Date: 8 August 2007