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NEW SOUTH WALES – DRAFT ASSESSMENT BILATERAL AGREEMENT – COMMENTS

Thank you for this opportunity to comment on the draft Bilateral Agreement to be made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) between the Commonwealth and the State of Queensland relating to environmental assessment.

Following are my comments on the more substantive aspects of the proposed amendments.

General

- Matters of national significance should be assessed by the national (i.e. Commonwealth) government because it is the only level of government that can properly take a national view and it must not cede its responsibilities. Those responsibilities include discharging international obligations. Furthermore, the NSW government has repeatedly demonstrated a failure to properly consider matters of state, national and international significance. This demonstrates that it cannot, and cannot be trusted to, make assessments on matters of national significance.
- The aim of environmental assessments is about assessing the environmental impacts of a proposed action or suite of actions. It should not be about ‘making swift decisions’ and ‘delivering certain outcomes’. The draft Agreement needs to be amended accordingly.
- The Agreement, if it proceeds, should be about maximising the effectiveness as well as efficiency of assessment processes. Proposed clause 6.3(c) in particular needs amending in this regard, to bring it in line with the rest of the Agreement.
- The focus in proposed clause D of the Introduction on high environmental standards is welcome and should be reflected throughout the Agreement.
- The processes for proposed coal seam gas and large coal mining developments is welcome and should be extended to all coal mining developments.
- The proposed recognition of the role, interests, expertise and needs of Indigenous peoples is welcome.
- All draft documents, including draft standard terms of reference, should be made available to the Commonwealth and for public comment before they are finalised.
- ‘outcome-focussed conditions’ is imprecise, particularly in the context of the aims of the EPBC Act, namely to protect the environment and biodiversity. These words need definition consistent with the EPBC Act or replacement with suitable precise wording that is consistent with the EPBC Act.

G King
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