

Onestopshop@environment.gov.au

QUEENSLAND – DRAFT BILATERAL AGREEMENT – COMMENTS

Thank you for this opportunity to comment on the draft Amending Agreement No. 3 to the Bilateral Agreement under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) between the Commonwealth and the State of Queensland relating to environmental assessment.

I note that most of the proposed amendments are to tidy up minor editorial matters or are consequential to the proposed amendments.

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

General

- The roles and responsibilities of the Queensland Environment Minister and be 'relevant Queensland Minister' and how those ministers relate to the Commonwealth Environment Minister is unclear and could lead to confusion or matters 'slipping through the cracks'. These matters need to be spelt out in the agreement.

Proposed clause 12.4

- This clause should be omitted. 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 current Queensland 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.

Proposed clause 13

- Proposed clause 13.1 is welcome but proposed clause 13.2 should be deleted for the reasons given against proposed clause 12.4.

Proposed clause 18.1

- Draft standard terms of reference should be made available for public comment before they are finalised and this should be specified in the Bilateral Agreement (at clause 18.1).
- 'Queensland with consult with the Commonwealth' is imprecise and should be replaced by current clause 15.1.

Proposed clause 18.2

- '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.

Proposed clause 21

- Proposed clause 21(c) should be deleted for the reasons given against proposed clause 12.4 and because ‘outcome-focussed’ is imprecise, particularly with respect to protecting the environment and biodiversity.
- Proposed clause 21(d) should be deleted for the reasons given against proposed clause 12.4.

Proposed section 44 – definitions

- The wording for the definition of 'draft assessment report' should mirror the wording of the definition of 'assessment report'. Furthermore, 'and is restricted to the chapter on impacts on MNES' should be deleted from the definition of 'draft assessment report' because it means the definition does not mirror the definition of 'assessment report' and 'MNES' is neither spelt out or defined in the draft agreement.

Schedule 1, Class 1, clause 3.1

- Swapping ‘environmental impact statement’ for ‘EIS’ in the head paragraph seems odd and inconsistent : surely the one terminology should be used throughout.

Schedule 1, Class 3, clause 3.1

- Extending the minimum submission period for public comments to a minimum of 30 business days and should apply throughout the agreement (i.e. to all Classes). This will help provide balance to ‘the public’ which, usually individuals or small groups, do not have the resources of the proponents or their industry associations. Longer periods for public consultation would be even better for ensuring that the public is aware of and has opportunity to comment on proposals.

G King
6 December 2013