



COMMONWEALTH OF AUSTRALIA THE STATE OF VICTORIA

BILATERAL AGREEMENT

Bilateral agreement made under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) relating to environmental assessment

Commonwealth of Australia
(**Commonwealth**)

and

The State of Victoria
(**Victoria**)

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Details

Parties

1. The Minister for the Environment for and on behalf of the Commonwealth of Australia (the **Commonwealth**).
2. The Minister for Planning for and on behalf of the State of Victoria (**Victoria**).

Background

- A. Under the Intergovernmental Agreement on the Environment 1992 and Council of Australian Governments' Heads of Agreement on Commonwealth and State Roles and Responsibilities for the Environment 1997, the parties committed to working together across shared responsibilities to protect and conserve Australia's environment.
- B. Both the Commonwealth and Victoria are committed to cooperative efforts to strengthen intergovernmental cooperation on the environment and to minimise costs to business while maintaining high environmental standards.

Objects

- C. The Commonwealth and Victoria are jointly committed to maintaining high environmental standards and working together to streamline environmental assessment by this Agreement, as a step to establishing a 'one-stop-shop' for environmental approvals. This Agreement seeks to ensure the maintenance of strong and effective environmental outcomes, while ensuring an efficient, timely and effective process for environmental assessment and approval of actions.
- D. The parties will work cooperatively so that Australia's high environmental standards are maintained, including so that the Commonwealth Minister can make appropriate approval decisions, by ensuring that:
 - a. Australia complies fully with all its international environmental obligations;
 - b. Matters of NES are protected as required under the EPBC Act;
 - c. there are high quality assessments of the impacts of proposals on Matters of NES; and
 - d. authorised actions do not have unacceptable or unsustainable impacts on Matters of NES.
- E. This Agreement provides for the accreditation of the Victorian processes set out in Schedule 1 to ensure an integrated and coordinated approach to the assessment of actions requiring approval from both the Commonwealth Minister (under the EPBC Act) and Victoria.
- F. This Agreement will therefore enable the Commonwealth to rely on the Victorian assessment processes set out in Schedule 1 for approvals under the EPBC Act. As a step toward establishing a 'one-stop-shop' the parties will work together so that Commonwealth conditions attached to approvals are strictly limited to matters not addressed in Victorian assessments and approvals.
- G. The parties will pursue a comprehensive approvals bilateral agreement to accredit Victorian approvals processes under the EPBC Act subject to statutory requirements.

The parties will use their best endeavours to conclude an agreement by the end of 2014.

- H. The parties will use their best endeavours to undertake the commitments in this Agreement acting in a spirit of cooperation and consultation to achieve an efficient, timely and effective process for environmental assessments and decisions on whether to approve actions.

Provisions

1. Definitions and interpretation

1.1 Definitions

In this Agreement, except where the contrary intention is expressed, terms have the same meaning as in the EPBC Act and otherwise the following definitions are used:

Administrative Arrangements	administrative arrangements made under clause 9.1 of this Agreement.
Agreement	this bilateral agreement made under section 45 of the EPBC Act between the Commonwealth and Victoria, as amended from time to time, and includes its Schedule(s).
Assessment Documentation	any formal report, study, agreement, submission or correspondence prepared by or received as part of the assessment processes set out in Schedule 1. This includes reports or studies which would normally be publicly available under the assessment process.
Assessment Report	the report on the relevant impacts of a controlled action prepared in accordance with Schedule 1.
Commencement Date	the date 65 calendar days after the date that either this Agreement is executed by the parties or, if executed on separate days, the date on which this Agreement is executed by the last party to do so.
Commonwealth Minister	the Minister administering the EPBC Act and, except in relation to clauses 12, 13 and 14, includes a delegate of the Minister.
Department	the Commonwealth Department of the Environment, or any other Commonwealth agency that administers this Agreement from time to time.
EPBC Act	the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).
EPBC Regulations	the <i>Environment Protection and Biodiversity Conservation Regulations 2000</i> (Cth).
Information	includes data.
Law	any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government and includes the common law and rules of equity as applicable from time to time.

Lead Victorian Minister	the Victorian Minister nominated by the Premier of Victoria. At the time of signing this agreement, the lead Minister is the Minister for Planning.
Matter of NES	a matter of national environmental significance protected by a provision of Division 1 of Part 3 of the EPBC Act.
Previous Bilateral Agreement	the bilateral agreement dated 20 June 2009 between the Commonwealth and Victoria relating to environmental impact assessment.
Schedule	a schedule to this Agreement.
relevant Victorian Minister	the Victorian Minister administering legislation accredited for the purpose of this Agreement in accordance with clause 4.1 and Schedule 1.

1.2 Interpretation

In this Agreement, except where the contrary intention is expressed:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) the meaning of general words is not limited by specific examples introduced by 'for example' or similar expressions;
- (d) a reference to a clause, paragraph, Schedule or annexure is to a clause or paragraph of, or Schedule or annexure to, this Agreement;
- (e) a reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) a reference in this Agreement to Victorian legislation is a reference to the relevant legislation as in force at the Commencement Date; and
- (g) notes and headings are for convenient explanation or reference only and do not form part of this Agreement or affect the meaning of the provision to which they relate.

1.3 Priority of Agreement documents

If there is inconsistency between any of the documents forming part of this Agreement, those documents will be interpreted in the following order of priority to the extent of any inconsistency:

- (a) the details and provisions of this Agreement;
- (b) a Schedule; then
- (c) the Administrative Arrangements.

2. Nature of this Agreement

- (a) This Agreement is a bilateral agreement made under section 45 of the EPBC Act.
- (b) This Agreement does not create contractual or other legal obligations between the parties, and a breach of this Agreement will not give rise to any cause of action, or right to take legal proceedings, other than as provided for in the EPBC Act.
- (c) Transitional support from the Commonwealth in the form of embedded officers will be considered and detailed in the Administrative Arrangements.

3. Duration of this Agreement

This Agreement commences on the Commencement Date and continues unless cancelled or suspended in accordance with the EPBC Act.

Note: Section 65(2) of the EPBC Act requires the Commonwealth Minister to cause a review of the operation of this Agreement to be carried out at least once every five years while this Agreement remains in effect.

4. Effect of this Agreement

4.1 Classes of actions not requiring assessment under the EPBC Act

Under subsection 47(1) of the EPBC Act, it is declared that an action does not require assessment under Part 8 of the EPBC Act if the action is in the class of actions specified in Schedule 1 to this Agreement.

4.2 Scope

- (a) Subject to clause 4.3, clause 4.1 applies to actions which occur wholly within Victoria, including its coastal waters.
- (b) For actions which do not occur wholly within Victoria, or which are taken in Victoria but have relevant impacts in other jurisdictions, the parties will 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.
- (c) Consistent with section 49 of the EPBC Act, the provisions of this Agreement do not have effect in relation to an action in a Commonwealth area or an action taken by the Commonwealth or a Commonwealth agency.

4.3 Determination that an action is not within a class of action

- (a) The Commonwealth Minister may determine that a particular action is not within a class of actions to which clause 4.1 applies.
- (b) The Commonwealth Minister:
 - (i) is to use his/her best endeavours to consult the lead Victorian Minister before making a decision under clause 4.3(a);

- (ii) cannot make a decision under clause 4.3(a) after the Victorian Minister has given notice under clause 5.3.

4.4 Previous Bilateral Agreement

The Previous Bilateral Agreement is revoked from the Commencement Date.

5. Procedures for referral

5.1 The parties to inform proponents of need to refer under the EPBC Act

The parties will use their best endeavours to align the administration of their respective referral processes:

- (a) to streamline Information requirements for referrals under the EPBC Act and relevant Victorian legislation;
- (b) to provide timely advice to proponents on the possible need to refer an action under the EPBC Act; and
- (c) to support timely decision-making on the application of an accredited assessment process or alternate process, where applicable.

5.2 Commonwealth Minister to inform lead Victorian Minister about whether an action is a controlled action

The Commonwealth Minister must notify the lead Victorian Minister of every action that:

- (a) is proposed to be taken in Victoria; and
- (b) the Commonwealth Minister determines is a controlled action,

within 10 business days of the Commonwealth Minister deciding that the action is a controlled action.

5.3 Notification by the lead Victorian Minister that an accredited process will apply

Where:

- (a) the Commonwealth Minister has notified the lead Victorian Minister that an action proposed to take place in Victoria is a controlled action; and
- (b) the action does not require assessment under Part 8 of the EPBC Act if assessed in a manner specified in Schedule 1 to this Agreement,

the lead Victorian Minister must ensure that, within 10 business days after receiving the written notice referred to in clause 5.2, advice is provided to the Commonwealth Minister, in writing, whether the action will be assessed in a manner specified in Schedule 1 to this Agreement. If advice from Victoria is not received within the agreed timeframes, the Commonwealth Minister may proceed to determine the required assessment process under the EPBC Act.

6. Assessment

6.1 Statutory undertaking

- (a) Where an action:
- (i) is a controlled action taken or proposed to be taken in Victoria;
 - (ii) does not require assessment under Part 8 of the EPBC Act if assessed in a manner specified in Schedule 1 of this Agreement; and
 - (iii) is an action:
 - (A) taken or proposed to be taken by a constitutional corporation; or
 - (B) 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
 - (C) whose regulation is appropriate and adapted to give effect to Australia's obligations under an agreement with one or more other countries,

Victoria 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.

- (b) The parties agree that 'greatest extent practicable' in clause 6.1(a) is satisfied where the assessment has been undertaken in a specified manner of assessment as outlined in Schedule 1.

6.2 Proponent Service Delivery Charter

The parties agree to determine at the commencement of the assessment process key deliverables, milestones, and contact personnel for each party. To this end, the parties agree to establish, where appropriate, a Proponent Service Delivery Charter for each assessment project in the manner set out in the Administrative Arrangements.

6.3 Single assessment

- (a) In determining the assessment approach for a proposed action, Victoria will decide on an appropriate form of assessment equivalent to assessment via an inquiry, environmental impact statement, public environment report or preliminary documentation under the EPBC Act that will allow the Commonwealth Minister to have sufficient information to make an informed decision whether or not to approve the proposed action and, if so, under what conditions.
- (b) To ensure that a single Victorian assessment can be relied on by the Commonwealth Minister for a decision under Part 9 of the EPBC Act, Victoria will ensure that the Assessment Report includes:
- (i) a description of:
 - (A) the action;
 - (B) the places affected by the action; and
 - (C) any Matters of NES that are likely to be affected by the action;

- (ii) all relevant impacts on Matters of NES separately. This means that the nature and extent of likely impacts must be explicitly assessed for each Matter of NES, being, as relevant:
 - (A) the World Heritage values of a World Heritage property;
 - (B) the National Heritage values of a National Heritage place;
 - (C) the ecological character of a Ramsar wetland;
 - (D) listed threatened species (except a conservation dependent species) or their habitat, or any threatened ecological communities;
 - (E) the members of a listed migratory species or their habitat;
 - (F) a water resource, in relation to coal seam gas or large coal mining developments;
 - (G) the environment of the Commonwealth marine area (for actions outside the Commonwealth marine area that may impact the environment in the Commonwealth marine area);
 - (H) Commonwealth land (for actions outside Commonwealth land that may impact on the environment on Commonwealth land); and
 - (I) the environment (in the case of a nuclear action);
 - (iii) a separate chapter or part dealing with all relevant impacts on Matters of NES;
 - (iv) a description of feasible mitigation measures, changes to the action or procedures to prevent or minimise environmental impacts on each relevant Matter of NES proposed by the proponent or suggested in public submissions;
 - (v) to the extent practicable, a description of any feasible alternatives to the action that have been identified through the assessment process, and their likely impact on each Matter of NES;
 - (vi) a statement of recommended conditions for approval of the action that may be imposed to address identified impacts on Matters of NES, including consideration of any offsets;
 - (vii) a statement of Victorian approval requirements and conditions that apply, or are proposed to apply, to the action when the report is prepared, including a description of the monitoring, enforcement and review procedures that apply, or are proposed to apply, to the action; and
 - (viii) the Information and opinion on which the assessment is based, or its source; and
 - (ix) is accompanied by sufficient information about the relevant impacts of the action to let the Commonwealth Minister make an informed decision whether or not to approve under Part 9 of the EPBC Act (for the purposes of each controlling provision) the taking of the action.
- (c) In relation to coal seam gas and large coal mining developments, to ensure that the Commonwealth Minister can efficiently proceed to a decision consistent with s.131AB of the EPBC Act, Victoria will:
- (i) refer coal seam gas or large coal mining developments that are likely to have a significant impact on water resources to the Independent Expert

Scientific Committee on Coal Seam Gas and Large Coal Mining Development for advice; and

- (ii) take account of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development advice in the Assessment Report.
- (d) Victoria may seek advice on relevant matters from Commonwealth agencies with relevant expertise with details to be outlined in the Administrative Arrangements.

6.4 Consistency and predictability

The parties agree to take steps to improve the efficiency and effectiveness of their own administrative processes to the greatest extent possible. This will include, but is not limited to the use of:

- (a) greater up-front guidance to industry;
- (b) streamlined generic terms of reference for assessments;
- (c) standard outcome-focused conditions; and
- (d) increased information sharing across governments and provision of industry information from assessment documentation to the public

6.5 Draft Assessment Report

To ensure requirements of the EPBC Act are met, wherever practicable Victoria will consult with the Commonwealth prior to finalising the Assessment Report with respect to:

- (a) elements of the Assessment Report which address impacts on Matters of NES; and
- (b) proposed conditions to address impacts on Matters of NES

in sufficient time for the Commonwealth to advise whether further information is required.

6.6 Final Assessment Report

- (a) When an action is assessed in the manner specified in Schedule 1 of this Agreement, Victoria will:
 - (i) provide a copy of the final Assessment Report or part thereof which addresses the relevant impacts of the action, to the Commonwealth Minister on the date on which the Assessment Report is provided to the proponent or decision-maker or published under the relevant Victorian Law; and
 - (ii) provide copies of the Information about the relevant impacts of the action to the Commonwealth Minister not more than 10 business days after the date on which the Assessment Report is provided to the decision-maker under the relevant Victorian Law.
- (b) Victoria may, when it provides the final Assessment Report referred to in clause 6.6(a), 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, or any relevant Law).

6.7 Additional Information

- (a) If, in deciding whether to approve the taking of a proposed action assessed under this Agreement, the Commonwealth Minister uses any Information described in section 136(2)(e) of the EPBC Act, the Commonwealth Minister undertakes to provide a copy of this Information to the relevant Victorian Minister.
- (b) The Commonwealth Minister agrees to give the relevant Victorian Minister an opportunity to comment on the accuracy of this Information, subject to the requirements of section 130 of the EPBC Act relating to the time period within which the Commonwealth Minister must decide whether to approve the action.

6.8 Relevant plans and policies

- (a) When preparing Assessment Reports on relevant impacts under this Agreement, Victoria agrees to take into account:
 - (i) relevant statutory guidelines, policies, plans and instruments, including where relevant a recovery plan for a relevant listed threatened species or ecological community, any relevant approved conservation advice and any relevant threat abatement plan; and
 - (ii) Information in a report on the impacts of actions taken under a policy, plan or program under which the action is to be taken that was given to the Commonwealth Minister under an agreement under Part 10 of the EPBC Act (about strategic assessments).
- (b) In addition, Victoria agrees to provide information in Assessment Reports on:
 - (i) the potential of the assessed action to comply with the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy*;
 - (ii) any proposed offsetting measures;
 - (iii) the implications of any non-statutory guidelines, policies, plans and instruments that are relevant to decision-making under the EPBC Act.
- (c) The Commonwealth agrees to meaningfully consult with Victoria before amending or adopting statutory guidelines, policies, plans and instruments relating to accredited environmental assessment processes.

7. Transparency and access to Information

7.1 Indigenous peoples

- (a) Assessments will recognise the role and interests of Indigenous peoples in promoting the conservation and ecologically sustainable use of natural resources and promote the cooperative use of Indigenous peoples' knowledge of biodiversity and Indigenous heritage.
- (b) In particular, Victoria will:
 - (i) take all reasonable steps to obtain the views of Indigenous peoples in relation to any action under assessment that is likely to have a significant impact on any Matter of NES that relates to Indigenous

cultural heritage or, that will occur on or directly affect land held under native title;

- (ii) treat the views of Indigenous peoples as the primary source of Information on the value of Indigenous cultural heritage; and
- (iii) take into account, as appropriate, guidelines published by the Commonwealth in relation to consulting with Indigenous peoples for proposed actions that are under assessment.

7.2 Public access – generally

Victoria agrees that documentation about each assessment made under the manner specified in Schedule 1 will be available to the public, subject to any appropriate lawful exemptions and exclusions, consistent with those that would be available if the assessment was undertaken under Part 8 of the EPBC Act by the Commonwealth (including commercial-in-confidence Information and Information that is critical to the protection of a Matter of NES).

7.3 Public access – particular needs groups

- (a) Victoria will ensure affected groups with particular communication needs have an adequate opportunity to comment on actions assessed in the manner specified in Schedule 1.

Note: Groups with particular communication needs may include those with a vision or hearing impairment; who are illiterate or for whom English is a second language; and who, because of a disability, have difficulty accessing paper documentation or using a computer.

- (b) The parties note that Indigenous people affected by a proposed action may have particular communication needs, and will make arrangements to ensure that affected Indigenous people have reasonable opportunity to comment on actions assessed under this Agreement.

8. Conditions

8.1 Conditions attached to an approval

- (a) The parties will seek to align, conditions to approvals for an action assessed under this Agreement and Victorian Law.
- (b) To this end, the parties:
 - (i) note the provisions of section 134 of the EPBC Act, which include a requirement for the Commonwealth Minister to consider any relevant State conditions when deciding whether to attach a condition to an approval;
 - (ii) agree to consult on the conditions proposed to be attached to an approval granted by either party; and
 - (iii) agree to inform one another before varying conditions attached to an approval for an action, where the condition relates to, or affects, a matter protected by Part 3 of EPBC Act. The parties also agree to advise one another of any such variation after it has been made.
- (c) To minimise duplication to the extent possible for actions assessed under this Agreement:
 - (i) Victoria will identify conditions imposed, recommended or likely to be imposed by Victoria in relation to Matters of NES; and

- (ii) the Commonwealth will make its best endeavours to ensure that conditions under the EPBC Act are strictly limited to matters not addressed, or likely to be addressed, by the State conditions.

8.2 Monitoring compliance with conditions

- (a) Where an action:
 - (i) is taken in Victoria;
 - (ii) requires the approval of the Commonwealth Minister under Part 9 of the EPBC Act; and
 - (iii) requires approval (however described) under Victorian Law,the parties agree to cooperate in monitoring compliance with conditions attached to approvals, with the aim of reducing duplication.
- (b) Without limiting clause 8.2(a), the parties agree:
 - (i) that each party will inform the other of any conditions attached to an approval(s) to take an action assessed under this Agreement; and
 - (ii) subject to the legal requirements of each party, to put complementary arrangements in place for monitoring compliance with conditions imposed on any action. The aim of these arrangements is to ensure that reporting and compliance activities, including site inspections are, to the extent practicable, consistent and effective.

8.3 Enforcing conditions on approvals

The parties agree to inform one another, as soon as practicable, of any action to prosecute a person for contravening a condition of an approval for an action assessed under this Agreement, where the condition relates to, or affects, a matter protected by Part 3 of the EPBC Act.

9. Cooperation and governance

9.1 Administrative Arrangements

To ensure that the requirements of this Agreement are administered cooperatively and efficiently, the parties will jointly develop Administrative Arrangements:

- (a) that further detail the roles and responsibilities of each of the parties;
- (b) that streamline the referral process for proponents;
- (c) which may include guidelines on the exchange of Information for the purpose of clause 9.3 (Exchange of Information);
- (d) which will allow proponents to simultaneously satisfy both requirements under the EPBC Act and relevant Victorian Law; and
- (e) that otherwise provide for the implementation of this Agreement.

9.2 Senior officers' committee

- (a) The Administrative Arrangements will detail and provide for the establishment of a senior officers' committee to oversee the implementation of this Agreement.
- (b) The senior officers' committee will meet at least twice every 12 months after the Commencement Date.

- (c) Terms of reference for the senior officers' committee will be set out in the Administrative Arrangements.

Note: The parties intend that the senior officers' committee would have alternating Chairs and would deal with both specific matters arising, including any necessary corrective actions, but also be responsible for the ongoing health of this Agreement and the partnership, including making recommendations to governments on a continuous improvement basis, and to consider the implications of any legislative or other system changes proposed by either party.

9.3 Exchange of Information

- (a) Where permitted by Law to do so, each party agrees to share Information for the purposes of assessments conducted under this Agreement and to comply promptly with any reasonable request from the other party to supply Information relating to this Agreement.
- (b) Subject to the permission of the owner of the relevant Information and the confidentiality requirements of the party providing the Information, the parties agree to make available to each other any appropriate and relevant Information for the parties to meet their respective responsibilities relating to this Agreement.
- (c) The parties agree that Information 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 Information will not be used or communicated to any other person without the permission of the owner.

9.4 Aligning assessment processes

The parties recognise that there is opportunity to streamline assessment processes even where those assessment processes cannot be accredited. To this end, the parties agree that they will cooperate to align assessment processes as set out in the Administrative Arrangements.

9.5 Guidance documents

- (a) The parties commit to cooperate in the development, maintenance, review, and implementation of guidance documents relating to Matters of NES and the operation of this Agreement.
- (b) For the purposes of this clause 9.5, guidance documents may include:
 - (i) referral / application guidelines in relation to significant impacts on Matters of NES;
 - (ii) guidance documents for listed threatened species and ecological communities; and
 - (iii) other guidelines, policies or plans relating to Matters of NES prepared by the Commonwealth under the EPBC Act that may relate to the operation of this Agreement.

10. Review

10.1 Five year reviews

- (a) A review of the operation and effectiveness of this Agreement must be carried out at least once every five years while this Agreement remains in effect in accordance with section 65 of the EPBC Act.

- (b) Each review of this Agreement under this clause will be carried out jointly by the relevant administrative units of the Commonwealth and Victoria, at their own cost.
- (c) Each review will include an evaluation of the operation and effectiveness of this Agreement against the objects of this Agreement.
- (d) The Administrative Arrangements under clause 9.1 will set out the process that the parties agree to follow in conducting each review.
- (e) The Commonwealth Minister must publish the report of each review in accordance with the EPBC Regulations and give a copy of the report of each review to Victoria.

11. Audit

11.1 Commonwealth Auditor-General

The parties recognise that, under the *Auditor-General Act 1997* (Cth), the Commonwealth Auditor-General may audit the operations of the Commonwealth public sector (as defined in section 18 of that Act) in relation to this Agreement.

12. Dispute resolution

12.1 Escalation process

- (a) Acting in a spirit of cooperation, the parties agree that any dispute arising during the course of this Agreement will be dealt with as follows:
 - (i) the party claiming that there is a dispute will provide notice to the other party setting out the nature of the dispute;
 - (ii) the parties will seek to resolve the dispute by direct negotiation using their best endeavours;
 - (iii) discussions aimed at resolution will normally take place in the following order, before the exercise of any other rights in, or referred to in, clause 13:
 - (A) at senior officials level, between officers of the senior officers committee established under clause 9.2;
 - (B) between the Secretary of the Commonwealth Department and the equivalent Victorian official; and
 - (C) correspondence between the Commonwealth Minister and the lead Victorian Minister.
- (b) This clause 12 is subject to the rights and obligations of each party under relevant sections of the EPBC Act (including those sections dealing with cancellation and suspension of bilateral agreements).

12.2 Obligations continue

Despite the existence of a dispute, both parties must continue to perform their respective obligations under this Agreement, unless this Agreement is suspended or cancelled in accordance with the EPBC Act.

13. Suspension or cancellation

13.1 By Commonwealth Minister

Sections 57 to 64 of the EPBC Act provide that the Commonwealth 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. Sections 57 to 64 of the EPBC Act also set out a process for consulting on the cancellation or suspension of all or part of this Agreement.

13.2 At the request of the lead Victorian Minister

- (a) Section 63 of the EPBC Act requires the Commonwealth Minister to cancel or suspend all or part of this Agreement if the lead Victorian Minister requests a notice of cancellation or suspension in accordance with this Agreement.
- (b) A request by the lead Victorian Minister under section 63 of the EPBC Act to cancel or suspend all or part of this Agreement is made in accordance with this Agreement if:
 - (i) the request is made on the grounds that the lead Victorian Minister is not satisfied that the Commonwealth has complied or will comply with this Agreement; or
 - (ii) the request is made on the grounds that the lead Victorian Minister is not satisfied that the objects of this Agreement are being achieved; and
 - (iii) before making the request, the lead Victorian Minister has informed the Commonwealth Minister in writing of the reasons for requesting the suspension or cancellation and allowed a period of at least 20 business days for the Commonwealth Minister to respond.

14. Amendment

14.1 Continuous improvement

The parties will notify and consult each other on matters that come to their attention that may improve the operation of this Agreement.

14.2 Minor amendments to this Agreement

- (a) The parties note that under section 56A of the EPBC Act the Commonwealth Minister may make a written determination that an intended draft amendment to a bilateral agreement will not have a significant effect on the operation of the bilateral agreement.
- (b) Before making a determination under section 56A of the EPBC Act, the Commonwealth Minister must reach agreement with the lead Victorian Minister on the wording of the amendment.

14.3 Amendment of legislation

If the EPBC Act or relevant Victorian legislation or any other relevant Law is subsequently amended, or proposed to be amended, in a manner that would affect the operation of this Agreement, the parties agree to promptly notify each other and the parties will seek to agree as soon as practicable on whether it is necessary to make another bilateral agreement varying or replacing this Agreement.

15. Freedom of information

- (a) If a party receives any request, including under freedom of information Laws, for any documents originating from another party which are not otherwise publicly available, the parties will, subject to the requirements of the relevant freedom of information Laws, consult on the release of those documents.
- (b) The parties recognise the need for expeditious consultation on such requests so that statutory obligations can be met.

16. General provisions

16.1 Counterparts

This Agreement may be executed in counterparts. All executed counterparts constitute one document.

16.2 Notice

A party giving notice or notifying under this Agreement must do so in writing or by electronic communication.

16.3 Disclosure of Information

Notwithstanding any other provision of this Agreement, the Department may disclose Information about this Agreement required to be reported by the Department.

Schedule 1 – Declared class of actions

1. Preamble

- (a) Section 47(1) of the EPBC Act 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.
- (b) Clause 4.1 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 EPBC Act.

2. Classes of actions to which clause 4.1 applies

2.1 Classes of actions

Subject to Item 2.2 of this Schedule 1, for the purposes of the declaration in clause 4.1 of this Agreement, the classes of actions are:

- (a) actions that are assessed under the comprehensive impact statement (CIS) process in Part 3, Division 5 of the *Major Transport Projects Facilitation Act 2009* (Vic) (MTPF Act) and where the assessment has been undertaken in accordance with the requirements of Item 3 of this Schedule 1. This assessment approach is taken to correspond to assessment by Environmental Impact Statement under Division 6 of Part 8 of the EPBC Act;
- (b) actions that are assessed by an Environment Effects Statement process under the *Environment Effects Act 1978* (Vic) and where the assessment has been undertaken in accordance with the requirements of Item 4 of this Schedule 1. This assessment approach is taken to correspond to assessment by Environmental Impact Statement under Division 6 of Part 8 of the EPBC Act;
- (c) actions that are assessed under the *Environment Effects Act 1978* (Vic), where a decision has been made by the Victorian Minister under section 8B(3)(b) of the *Environment Effects Act 1978* (Vic) that an Environment Effects Statement is not required on the condition that an environmental report is prepared, and which includes an assessment of the action undertaken in accordance with the requirements of Item 5 of this Schedule 1. This assessment approach is taken to correspond to assessment by preliminary documentation under Division 4 of Part 8 of the EPBC Act;
- (d) actions that are assessed by an advisory committee appointed under section 151 of the *Planning and Environment Act 1987* (Vic) and where the assessment has been undertaken in accordance with the requirements of Item 6 of this Schedule 1. This assessment approach is taken to correspond to assessment by an inquiry under Division 7 of Part 8 of the EPBC Act;
- (e) actions that are assessed in accordance with the process at Item 7 of Schedule 1 where the action is also assessed by a responsible authority (other than the relevant Victorian Minister) under the permit application process in Part 4 of the *Planning and Environment Act 1987* (Vic). This assessment approach is taken to correspond to assessment by preliminary documentation under Division 4 of Part 8 of the EPBC Act;
- (f) actions that are assessed under the permit application process in Part 4 of the *Planning and Environment Act 1987* (Vic), where the relevant Victorian

Minister is the responsible authority for the purposes of that Act and the assessment has been undertaken in accordance with the requirements of Item 8 of this Schedule 1. This assessment approach is taken to correspond to assessment by preliminary documentation under Division 4 of Part 8 of the EPBC Act;

- (g) actions that are assessed as part of an application for works approval under section 19B of the *Environment Protection Act 1970* (Vic) and where the assessment has been undertaken in accordance with the requirements of Item 9 of this Schedule 1. This assessment approach is taken to correspond to assessment by preliminary documentation under Division 4 of Part 8 of the EPBC Act;
- (h) actions that are assessed as part of an application for approval under section 36, 51 or 67 of the *Water Act 1989* (Vic) and where the assessment has been undertaken in accordance with the requirements of Item 10 of this Schedule 1. This assessment approach is taken to correspond to assessment by preliminary documentation under Division 4 of Part 8 of the EPBC Act; and
- (i) actions that are assessed under the permit application process in Part 4, Division 1 of the *Heritage Act 1995* (Vic) and where the assessment has been undertaken in accordance with the requirements of Item 11 of this Schedule 1. This assessment approach is taken to correspond to assessment by preliminary documentation under Division 4 of Part 8 of the EPBC Act.

2.2 Transitional

A class of actions described in Items 2.1(b), (d), (f) and (g) of this Schedule 1 includes actions where:

- (a) the lead Victorian Minister has indicated in a written notice to the Commonwealth Minister under clause 13.2 of the Previous Bilateral Agreement that the action would be assessed in the manner specified in Schedule 1 to the Previous Bilateral Agreement; and
- (b) the relevant assessment process for that action had not been completed prior to the revocation of the Previous Bilateral Agreement.

2.3 Excluded actions

- (a) A class of actions described in Items 2.1(a) to 2.1(i) of this Schedule 1 does not include actions which have been determined to be a controlled action pursuant to section 75 of the EPBC Act prior to the Commencement Date.
- (b) A class of actions described in Item 2.1 of this Schedule 1 does not include actions which have been prescribed under section 25(1) of the EPBC Act.

3. Specified manner of assessment – Item 2.1(a) (*Major Transport Projects Facilitation Act 2009* (Vic))

3.1 Overview

Any controlled action subject to this Agreement and assessed using the assessment approach specified at Item 2.1(a) of this Schedule must be subject to the following requirements.

3.2 Guidelines or directions

- (a) Scoping directions issued by the relevant Victorian Minister under section 30(1) of the MTPF Act are to ensure that the CIS prepared by the proponent:

- (i) assesses all impacts that the action has, will have or is likely to have on each matter protected by a provision of Part 3 of the EPBC Act;
 - (ii) provides enough information about the controlled action and its relevant impacts to allow the Commonwealth Minister to make an informed decision whether to approve the action; and
 - (iii) addresses the matters outlined in Schedule 4 of the EPBC Regulations.
- (b) The relevant Victorian Minister is to seek public comment on the scoping directions before they are made under section 31(1)(b) of the MTPF Act. When public comments are sought, the publication requirements described in Items 3.3(a) and 3.3(b) must be complied with.

3.3 Public comment on CIS

- (a) When the public is invited to comment on the CIS, as well as on draft scoping directions, the invitation must:
- (i) be published in a newspaper circulating generally in each State and Territory; and
 - (ii) include the matters specified in Schedule 1, Item 7.04 of the EPBC Regulations.
- (b) An invitation for public comment on draft scoping directions is to enable submissions within a period of 15 business days.
- (c) The CIS is to be exhibited for a period of at least 28 calendar days but not more than 30 business days, within which any person may make a written submission. The Assessment Committee (see Item 3.5(a)) may accept late submissions within discretion allowed by the MTPF Act.
- (d) Persons making a submission on the CIS may present to the Assessment Committee that is to assess the CIS.
- (e) The proponent must have revised the CIS under section 61 of the MTPF Act so that the CIS summarises or takes into account the submissions referred to the proponent under section 55 of the MTPF Act, and submitted that revised CIS in accordance with section 62 of the MTPF Act.

3.4 Review by Assessment Committee

- (a) An Assessment Committee established by the relevant Victorian Minister under Division 5 Subdivision 3 of the MTPF Act to assess the CIS is to consider the relevant impacts of the action in accordance with terms of reference provided by that Minister.
- (b) The Assessment Committee is to consider the CIS, any revision of the CIS, any submissions from the public, and information provided by the proponent which addresses, to the greatest extent practicable, submissions from the public, with respect to relevant impacts of the action.
- (c) The Assessment Committee is to conduct a formal public hearing in relation to the CIS in accordance with Division 5 Subdivision 7 of the MTPF Act and its terms of reference, and to address the relevant impacts in its report and associated recommendations.

3.5 Assessment Report

An Assessment Report must be prepared by the relevant Victorian Minister which takes into account:

- (a) the report and recommendations of the Assessment Committee and relevant advice from the Environment Protection Authority;
- (b) the Information in the CIS, any revision of the CIS, and the proponent's response to public submissions; and
- (c) any other Information relating to relevant impacts that is available to the relevant Victorian Minister.

4. Specified manner of assessment – Item 2.1(b) (*Environment Effects Act 1978 (Vic)*)

4.1 Overview

Any controlled action subject to this Agreement and assessed using the assessment approach specified at Item 2.1(b) of this Schedule must be subject to the following requirements.

4.2 Guidelines or requirements

- (a) The relevant Victorian Minister is to prepare written scoping requirements for the preparation of an Environment Effects Statement (EES) that are designed to ensure that the EES:
 - (i) assesses all impacts that the action has, will have or is likely to have on each matter protected by a provision of Part 3 of the EPBC Act; and
 - (ii) provides enough information about the controlled action and its relevant impacts to allow the Commonwealth Minister to make an informed decision whether to approve the action; and
 - (iii) addresses the matters outlined in Schedule 4 of the EPBC Regulations.
- (b) The relevant Victorian Minister will, seek public comment on the scoping requirements before they are made and, in doing so, the publication requirements described in Item 4.3(a) and Item 4.3(b) of this Schedule 1 must be complied with.
- (c) The proponent is to prepare the EES in accordance with guidelines made under section 10 of the *Environment Effects Act 1978 (Vic.)*, and in accordance with aspects of the scoping requirements for the EES referred to in Items 4.3(a) and (b) of this Schedule 1 in relation to relevant impacts.

4.3 Public comment and review

- (a) An invitation for public comment on draft scoping requirements is to enable written submissions to the relevant Victorian Minister within a minimum period of 15 business days.
- (b) When the public is invited to comment on draft scoping requirements or an EES, the invitation must:
 - (i) be published in a newspaper circulating generally in each State and Territory; and

- (ii) include the matters specified in Schedule 1, Item 7.04 of the EPBC Regulations.
- (c) The EES must be made available to the public, released for public comment, and the public given at least 28 calendar days to provide written submissions to the relevant Victorian Minister.
- (d) The proponent must:
 - (i) be provided with any submissions made by the public during the period that the EES is released for public comments; and
 - (ii) prepare a written response to those submissions, which summarises or takes into account the issues raised by the public in those submissions, and provide that written response to:
 - (A) an inquiry appointed under section 9(1) of the *Environment Effects Act 1978* (Vic), if one is appointed prior to the completion of the inquiry; or
 - (B) the relevant Victorian Minister, as a supplementary statement under section 5 of the *Environment Effects Act 1978* (Vic), if an inquiry is not appointed.
- (e) If an inquiry is appointed under section 9(1) of the *Environment Effects Act 1978* (Vic) to assess the environmental effects of the proposal, it is to:
 - (i) consider the relevant impacts of the action in accordance with terms of reference provided by the relevant Victorian Minister;
 - (ii) consider the EES, any written submissions by the public, further submissions provided by submitters to the inquiry, and the response provided by the proponent to public submissions; and
 - (iii) address the relevant impacts in its report and associated recommendations.

4.4 Assessment Report

An Assessment Report must be prepared by, or on behalf of the relevant Victorian Minister which takes into account:

- (a) the report and recommendations of any inquiry appointed under the *Environment Effects Act 1978* (Vic);
- (b) the Information in the EES, any supplementary statement, and the proponent's response to public submissions; and
- (c) any other Information relating to relevant impacts that is available to the relevant Victorian Minister.

5. Specified manner of assessment – Item 2.1(c) *Environment Effects Act 1978* (Vic)

5.1 Overview

Any controlled action subject to this Agreement and assessed using the assessment approach specified at Item 2.1(c) of this Schedule must be subject to the following requirements.

5.2 Public comment

- (a) The proponent is required to prepare an environmental report (Environmental Report) by a condition specified by the relevant Victorian Minister pursuant to section 8B(3)(b) of the *Environment Effects Act 1978*.
- (b) The Environmental Report is to include or to be combined with relevant supporting documentation that describes:
 - (i) the proposed action;
 - (ii) the likely relevant impacts of the action, as defined in section 82 of the EPBC Act, and includes an assessment of those impacts;
 - (iii) to the extent practicable, any feasible alternatives to the proposed action that could avoid or reduce relevant impacts; and
 - (iv) possible mitigation measures.
- (c) Once prepared by the proponent to the satisfaction of the relevant Victorian Minister, the Environmental Report and relevant supporting documentation must be released for public comment for at least 14 calendar days.
- (d) When the public is invited to comment on the Environmental Report and relevant supporting documentation the invitation must:
 - (i) include the matters specified in Schedule 1, Item 7.04 of the EPBC Regulations; and
 - (ii) be published on a website approved by the relevant Victorian Minister and linked to the Department's website; or
 - (iii) be advertised in newspapers circulating generally in each State and Territory.
- (e) Prior to submitting final Assessment Documentation to the relevant Victorian Minister, the proponent must have been provided with any submissions made by the public during the period that the Environmental Report and relevant supporting documentation is released for public comment.

5.3 Assessment Documentation

The proponent must provide the relevant Victorian Minister with final Assessment Documentation that:

- (a) includes an assessment of the relevant impacts of the action as defined in section 82 of the EPBC Act; and
- (b) summarises, or takes into account, the issues raised by the public in response to the invitation for public comment described in Item 5.2 of this Schedule 1.

5.4 Assessment Report

An Assessment Report must be prepared by the relevant Victorian Minister which takes into account:

- (a) the Information in the Assessment Documentation; and
- (b) any other Information relating to relevant impacts that is available to the relevant Victorian Minister.

6. Specified manner of assessment – Item 2.1(d) (*Planning and Environment Act 1987* (Vic))

6.1 Overview

Any controlled action subject to this Agreement and assessed using the assessment approach specified at Item 2.1(d) of this Schedule must be subject to the following requirements.

6.2 Public comment

- (a) Prior to any hearing being conducted by persons appointed by the Victorian Minister as an advisory committee (Advisory Committee) under section 151 of the *Planning and Environment Act 1987* (see Item 6.3(a)) in respect of the action, the proponent of the action is to prepare assessment documentation that describes:
 - (i) the proposed action;
 - (ii) the likely relevant impacts of the action, as defined in section 82 of the EPBC Act, and includes an assessment of those impacts;
 - (iii) to the extent practicable, any feasible alternatives to the proposed action that could avoid or reduce relevant impacts; and
 - (iv) possible mitigation measures.
- (b) Once prepared by the proponent to the satisfaction of the relevant Victorian Minister, the assessment document must be released for public comment for at least 28 calendar days.
- (c) When the public is invited to comment on the assessment document the invitation must:
 - (i) be published in a newspaper circulating generally in each State and Territory; and
 - (ii) include the matters specified in Schedule 1, Item 7.04 of the EPBC Regulations.
- (d) The proponent of the action being assessed must be provided with any submissions made by the public during the period that the assessment document is released for public comment.
- (e) The proponent is to provide the Advisory Committee with a written response to submissions from the public that relate to relevant impacts.

6.3 Review by advisory committee

- (a) Persons are to be appointed by the Victorian Minister as an advisory committee under section 151 of the *Planning and Environment Act 1987*.
- (b) The persons appointed as the Advisory Committee are to be independent and to have sufficient power to investigate the action adequately.
- (c) The Advisory Committee is to consider the action in accordance with terms of reference provided by the Victorian Minister that will ensure that it:
 - (i) conducts a formal public hearing in relation to the action;
 - (ii) assesses all relevant impacts of the action, as defined in section 82 of the EPBC Act, and includes an assessment of those impacts;

- (iii) provides enough information about the action and its relevant impacts for the Commonwealth Minister to make an informed decision whether to approve the action; and
 - (iv) addresses the relevant impacts in its report and associated recommendations.
- (d) The Advisory Committee is to consider the assessment document initially prepared by the proponent, any written submissions by the public, further submissions provided by submitters, and the response provided by the proponent to public submissions.
- (e) The Advisory Committee is to give public notice of its terms of reference, including by advertising in newspapers circulating generally in each State and Territory.
- (f) Hearings are to be held in public, unless the Advisory Committee directs otherwise in the public interest or for reasons of commercial confidentiality.

6.4 Assessment Report

- (a) An Assessment Report must be prepared by the Advisory Committee that contains 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.
- (b) An Assessment Report is to take into account:
- (i) the Information in the proponent's assessment documentation and response to public submissions;
 - (ii) written submissions and further submissions presented to the public hearing of the Advisory Committee; and
 - (iii) any other Information relating to relevant impacts that is available to the Advisory Committee.

7. Specified manner of assessment – Item 2.1(e)

Note: It is intended that the assessment of an action by the relevant Victorian Minister under Item 7 will generally be conducted in parallel with the related assessment undertaken by the responsible authority under Part 4 of the Planning and Environment Act 1987 (Vic).

7.1 Overview

This Item specifies the manner of assessment for the purposes of the class in Item 2.1(e) of Schedule 1.

7.2 Public comment

- (a) The proponent is to prepare draft Assessment Documentation that describes:
- (i) the proposed action;
 - (ii) the likely relevant impacts of the action, as defined in section 82 of the EPBC Act, and includes an assessment of those impacts;
 - (iii) to the extent practicable, any feasible alternatives to the proposed action that could avoid or reduce relevant impacts; and
 - (iv) possible mitigation measures.

Note: If the information provided by the proponent to the responsible authority under Part 4 of the Planning and Environment Act 1987 (Vic) (including the information in the application) meets the

requirements set out under 7.2(a), the relevant Victorian Minister may consider this to be the draft Assessment Documentation for the purposes of 7.2(a).

- (b) Once prepared by the proponent to the satisfaction of the relevant Victorian Minister, the draft Assessment Documentation must be released for public comment for at least 14 calendar days.
- (c) When the public is invited to comment on the draft Assessment Documentation, the invitation must:
 - (i) include the matters specified in Schedule 1, Item 7.04 of the EPBC Regulations; and
 - (ii) be published on a website approved by the relevant Victorian Minister and linked to the Department's website; or,
 - (iii) be advertised in newspapers circulating generally in each State and Territory.
- (d) Prior to submitting final Assessment Documentation to the relevant Victorian Minister, the proponent must have been provided with any submissions made by the public during the period that the draft Assessment Documentation is released for public comment.

7.3 Assessment Documentation

The proponent must provide the relevant Victorian Minister with final Assessment Documentation that:

- (a) includes an assessment of the relevant impacts of the action as defined in section 82 of the EPBC Act; and
- (b) summarises, or takes into account, the issues raised by the public in response to the invitation for public comment described in Item 7.2 of this Schedule 1.

7.4 Assessment Report

An Assessment Report must be prepared by the relevant Victorian Minister which takes into account:

- (a) the Information in the Assessment Documentation; and
- (b) any other Information relating to relevant impacts that is available to the relevant Victorian Minister.

7.5 Definition

In this Item 7, **relevant Victorian Minister**, means the Victorian Minister responsible for administering the *Planning and Environment Act 1987* (Vic).

8. Specified manner of assessment – Item 2.1(f) *Planning and Environment Act 1987* (Vic))

8.1 Overview

Any controlled action subject to this Agreement and assessed using the assessment approach specified at Item 2.1(f) of this Schedule must be subject to the following requirements.

8.2 Public comment

- (a) An application for a permit under Part 4 of the *Planning and Environment Act 1987* (Vic) is to be accompanied by draft Assessment Documentation that describes:

- (i) the proposed action;
 - (ii) the likely relevant impacts of the action, as defined in section 82 of the EPBC Act, and includes an assessment of those impacts;
 - (iii) to the extent practicable, any feasible alternatives to the proposed action that could avoid or reduce relevant impacts; and
 - (iv) possible mitigation measures.
- (b) Once prepared by the proponent to the satisfaction of the relevant Victorian Minister, the draft Assessment Documentation must be released for public comment for at least 14 calendar days in conjunction with required notice of the permit application.
- (c) When the public is invited to comment on the draft assessment documentation, the invitation must:
- (i) include the matters specified in Schedule 1, Item 7.04 of the EPBC Regulations; and
 - (ii) be published on a website approved by the relevant Victorian Minister and linked to the Department's website; or
 - (iii) be advertised in newspapers circulating generally in each State and Territory.
- (d) Prior to submitting final Assessment Documentation to the relevant Victorian Minister, the proponent must have been provided with any submissions made by the public during the period that the draft Assessment Documentation is released for public comment.

8.3 Assessment Documentation

The proponent must provide the relevant Victorian Minister under the *Planning and Environment Act 1987* (Vic) with final Assessment Documentation that:

- (a) includes an assessment of the relevant impacts of the action as defined in section 82 of the EPBC Act; and
- (b) summarises, or takes into account, the issues raised by the public in response to the invitation for public comment described in Item 7.2 of this Schedule 1.

8.4 Assessment Report

An Assessment Report must be prepared by the relevant Victorian Minister which takes into account:

- (a) the Information in the Assessment Documentation; and
- (b) any other Information relating to relevant impacts that is available to the relevant Victorian Minister.

9. Specified manner of assessment – Item 2.1(g) (*Environment Protection Act 1970* (Vic))

9.1 Overview

Any controlled action subject to this Agreement and assessed using the assessment approach specified at Item 2.1(g) of this Schedule must be subject to the following requirements.

9.2 Public comment

- (a) An application for works approval under section 19B of the *Environment Protection Act 1970* (Vic) is to include or be combined with relevant supporting documentation that describes:
 - (i) the proposed action;
 - (ii) the likely relevant impacts of the action, as defined in section 82 of the EPBC Act, and includes an assessment of those impacts;
 - (iii) to the extent practicable, any feasible alternatives to the proposed action that could avoid or reduce relevant impacts; and
 - (iv) possible mitigation measures.
- (b) Once prepared by the proponent to the satisfaction of the Environment Protection Authority constituted under the *Environment Protection Act 1970* (Vic), the application and relevant supporting documentation must be released for public comment for at least 21 calendar days.
- (c) When the public is invited to comment, the invitation must:
 - (i) include the matters specified in Schedule 1, Item 7.04 of the EPBC Regulations; and
 - (ii) be published on a website approved by the Environment Protection Authority and linked to the Department's website; or
 - (iii) be advertised in newspapers circulating generally in each State and Territory.
- (d) Prior to submitting final Assessment Documentation to the Environment Protection Authority, the proponent must have been provided with any submissions made by the public during the period that the application and relevant supporting documentation is released for public comment.

9.3 Assessment Documentation

The proponent must provide the Environment Protection Authority with final Assessment Documentation that:

- (a) includes an assessment of the relevant impacts of the action as defined in section 82 of the EPBC Act; and
- (b) summarises, or takes into account, the issues raised by the public in response to the invitation for public comment described in Item 9.2 of this Schedule 1.

9.4 Assessment Report

An Assessment Report must be prepared by the Environment Protection Authority which takes into account:

- (a) the Information in the Assessment Documentation; and
- (b) any other Information relating to relevant impacts that is available to the Environment Protection Authority.

10. Specified manner of assessment – Item 2.1(h) (*Water Act 1989* (Vic))

10.1 Overview

Any controlled action subject to this Agreement and assessed using the assessment approach specified at Item 2.1(h) of this Schedule must be subject to the following requirements.

10.2 Public comment

- (a) An application for approval under section 36, 51 or 67 of the *Water Act 1989* (Vic) is to include or be combined with relevant supporting documentation that describes:
 - (i) the proposed action;
 - (ii) the likely relevant impacts of the action, as defined in section 82 of the EPBC Act, and includes an assessment of those impacts;
 - (iii) to the extent practicable, any feasible alternatives to the proposed action that could reduce avoid or reduce relevant impacts; and
 - (iv) possible mitigation measures.
- (b) Once prepared by the proponent to the satisfaction of the relevant Victorian Minister, the application and relevant supporting documentation must be released for public comment for 14 calendar days.
- (c) When the public is invited to comment, the invitation must:
 - (i) include the matters specified in Schedule 1, Item 7.04 of the EPBC Regulations; and
 - (ii) be published on a website approved by the relevant Victorian Minister and linked to the Department's website; or
 - (iii) be advertised in newspapers circulating generally in each State and Territory.
- (d) Prior to submitting final Assessment Documentation to the relevant Victorian Minister, the proponent must have been provided with any submissions made by the public during the period that the application and relevant supporting documentation is released for public comment.

10.3 Assessment Documentation

The proponent must provide the relevant Victorian Minister with final Assessment Documentation that:

- (a) includes an assessment of the relevant impacts of the action as defined in section 82 of the EPBC Act; and
- (b) summarises, or takes into account, the issues raised by the public in response to the invitation for public comment described in Item 10.2 of this Schedule 1.

10.4 Assessment Report

An Assessment Report must be prepared by the relevant Victorian Minister which takes into account:

- (a) the information in the Assessment Documentation; and

- (b) any other information relating to relevant impacts that is available to the relevant Victorian Minister.

11. Specified manner of assessment – Item 2.1(i) (Heritage Act 1995 (Vic))

11.1 Overview

Any controlled action subject to this Agreement and assessed using the assessment approach specified at Item 2.1(i) of this Schedule must be subject to the following requirements.

11.2 Public comment

- (a) An application for a permit under section 67 of the *Heritage Act 1995 (Vic)* is to include or be combined with relevant supporting documentation that describes:
 - (i) the proposed action;
 - (ii) the likely relevant impacts of the action, as defined in section 82 of the EPBC Act, and includes an assessment of those impacts;
 - (iii) to the extent practicable, any feasible alternatives to the proposed action that could reduce avoid or reduce relevant impacts; and
 - (iv) possible mitigation measures.
- (b) Once prepared by the proponent to the satisfaction of the Executive Director employed under Part 2 of the *Heritage Act 1995 (Vic)*, the application and relevant supporting documentation must be released for public comment for at least 14 calendar days.
- (c) When the public is invited to comment, the invitation must:
 - (i) include the matters specified in Schedule 1, Item 7.04 of the EPBC Regulations; and
 - (ii) be published on a website approved by the Executive Director and linked to the Department's website; or
 - (iii) be advertised in newspapers circulating generally in each State and Territory.
- (d) Prior to submitting final Assessment Documentation to the Executive Director, the proponent must have been provided with any submissions made by the public during the period that the application is released for public comment.

11.3 Assessment Documentation

The proponent must provide the Executive Director employed under Part 2 of the *Heritage Act 1995 (Vic)* with final Assessment Documentation that:

- (a) includes an assessment of the relevant impacts of the action as defined in section 82 of the EPBC Act; and
- (b) summarises, or takes into account, the issues raised by the public in response to the invitation for public comment described in Item 11.2 of this Schedule 1.

11.4 Assessment Report

An Assessment Report must be prepared by the Executive Director employed under Part 2 of the *Heritage Act 1995* (Vic) which takes into account:

- (a) the information in the Assessment Documentation; and
- (b) any other information relating to relevant impacts that is available to the Executive Director.

Execution page

EXECUTED as an agreement

SIGNED for and on behalf of the
Commonwealth of Australia by:

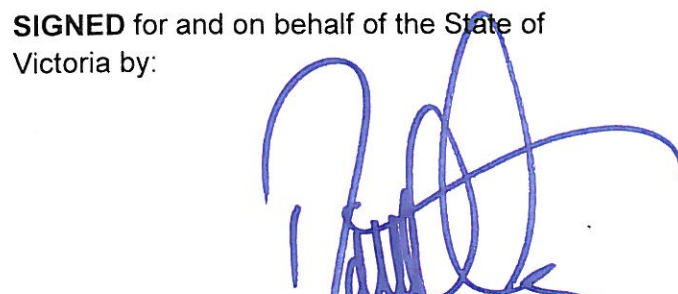


The Hon Greg Hunt MP
Minister for the Environment

15-10-2014

Date

SIGNED for and on behalf of the State of
Victoria by:



MATTHEW GUY MLC
Minister for Planning

27-10-14

Date