

Minister for Planning and Infrastructure

ABN 38 755 709 681

and

ACN 114 843 453 Pty Ltd

ACN 114 843 453

and

ThaQuarry Pty Ltd

ACN 119 533 372

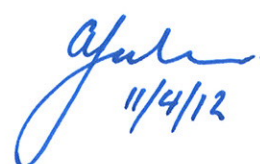
Alexandria Landfill Pty Limited

ACN 098 849 071

Eastern Creek Waste Project

Planning Agreement

Environmental Planning and Assessment Act 1979

A handwritten signature in black ink, consisting of a stylized 'h' followed by a large loop.A handwritten signature in blue ink, followed by the date '11/4/12' written in blue ink.

11/4/12
gfr

This deed is dated 19 April 2012

PARTIES:

MINISTER FOR PLANNING AND INFRASTRUCTURE (ABN 38 755 709 681) of Level 33 Governor Macquarie Tower, 1 Farrer Place, Sydney New South Wales 2000 (**Minister**)

ACN 114 843 453 PTY LTD (ACN 114 843 453) as trustee for the Eastern Creek Land Trust of 32 Burrows Road, Alexandria, New South Wales, 2015;

and

THAQUARRY PTY LTD (ACN 119 533 372) as trustee for the ThaQuarry Unit Trust of 32 Burrows Road, Alexandria, New South Wales, 2015 (together the **Developer**)

and

ALEXANDRIA LANDFILL PTY LIMITED (ACN 098 849 971) of 32 Burrows Road, Alexandria, New South Wales, 2015 (**Guarantor**).

INTRODUCTION:

- A** The Developer owns the Land.
- B** The Developer has obtained the Project Approval to undertake the Development.
- C** Pursuant to the Project Approval, the Developer offered to enter into this deed to secure the Development Contributions in accordance with conditions 50 and 51 of Schedule 3 of the Project Approval.
- D** This deed constitutes an agreement between the Developer and the Minister that the Developer will make the Development Contributions on the terms and conditions of this deed.

IT IS AGREED:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this deed, unless the context clearly indicates otherwise:

Act means the *Environmental Planning and Assessment Act 1979 (NSW)*.

Address for Service means the address of each party appearing in Schedule 2 of this deed or any new address notified by any party to all other parties as its new Address for Service.

Authority means any Federal, state or local government or semi-governmental statutory judicial or public person, instrumentality or department.

Bank Guarantee means an irrevocable and unconditional undertaking:

- (a) by an Australian bank and which is an eligible financial institution for the purposes of Treasury Circular NSW TC08/01 dated 21 February 2008 as amended, supplemented or substituted from time to time; and
- (b) on terms, acceptable to the Minister, in the Minister's absolute discretion,

to pay the face value of that undertaking (being such amounts as is required under this deed) on demand.

Business Day means any day that is not a Saturday, Sunday, gazetted public holiday or bank holiday in Sydney, and concludes at 5pm on that day.

Construction Consent means the grant of any approval under the Act that authorises the construction of a building on that part of the Land described in this deed as the Quarry Void and North Eastern Bund.

Development means the construction and operation of a resource recovery and non-putrescible landfill facility and associated works on the Land as approved by the Project Approval.

Development Contribution Table means the table in clause 1 of Schedule 4.

Development Contributions means the contributions provided for in the Development Contribution Table.

Director-General means the Director-General of the Department of Planning and Infrastructure.

Explanatory Note means the explanatory note required by the Regulation.

General Register of Deeds means the land register maintained under the *Conveyancing Act 1919 (NSW)*.

GST means any form of goods and services tax payable under the GST Law.

GST Legislation means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Land means the land described in Schedule 3.

Operation Date means the date that waste is first received on the Land for the purpose of a resource recovery and non-putrescible landfill facility or 30 June 2012 whichever is the earlier.

Project Approval means the approval by the Minister (Project Approval 06_0139) given under section 75J of the Act.

Quarry Void and North Eastern Bund means that part of the Land comprising 30.3 hectares shown cross hatched on the plan annexed to this deed as **Annexure A**.

Real Property Act means the *Real Property Act 1900 (NSW)*.

Register means the Torrens register maintained under the Real Property Act.

Regulation means the *Environmental Planning and Assessment Regulation 2000 (NSW)*.

Special Infrastructure Contribution has the same meaning as in the Act.

1.2 Interpretation

In this agreement, unless the context clearly indicates otherwise:

- (a) a reference to **this deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision (whether of an identical or similar nature) and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the **introduction**, a **clause**, **schedule** or **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this deed;
- (e) **clause headings**, the **introduction** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (f) the **schedules** form part of this deed;
- (g) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (h) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (i) a reference to a **corporation** includes its successors and permitted assigns;
- (j) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (k) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;

- (l) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (m) **including** and **includes** are not words of limitation;
- (n) a word that is derived from a defined word has a corresponding meaning;
- (o) **monetary amounts** are expressed in Australian dollars;
- (p) the singular includes the plural and vice-versa;
- (q) words importing one gender include all other genders;
- (r) a reference to a thing includes each part of that thing; and
- (s) neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2 OPERATION AND APPLICATION OF THIS DEED

2.1 Status of the deed

This deed constitutes a planning agreement within the meaning of section 93F of the Act.

2.2 Operation

- (a) This deed will commence from the date this deed is signed by all the parties.
- (b) This deed terminates when the Developer provides all of the Development Contributions.

2.3 Application

This deed applies to:

- (a) the Land; and
- (b) the Development.

3 DEVELOPMENT CONTRIBUTIONS

3.1 Requirement to provide Development Contributions

The Developer will provide, or procure the provision of, the Development Contributions in the manner and at the times set out in Schedule 4.

3.2 Use of Development Contributions

The Developer agrees that the Minister:

- (i) has no obligation to use or expend a Development Contribution for a particular purpose and has no obligation to repay a Development Contribution; and
- (ii) in circumstances where a Development Contribution is transferred to any Authority, has not made any representation or warranty that the Development Contribution will or must be used for a particular purpose by that Authority.

4 INTEREST

If the Developer fails to pay any amount due to the Minister on the due date for payment, the Developer must also pay to the Minister interest on the unpaid amount calculated at a rate of the loan reference rate charged by the Commonwealth Bank of Australia from time to time, from the day upon which it became due and payable up to but not including the day upon which payment is made.

5 APPLICATION OF SECTION 94, SECTION 94A, SECTION 94EF OF THE ACT

The application of sections 94, 94A and 94EF of the Act are excluded to the extent stated in Schedule 1.

6 REGISTRATION ON TITLE

6.1 Land Ownership

The Developer represents and warrants that it:

- (a) is the owner of the Land; and
- (b) is legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 6.2(b)(i) to assist, cooperate and to otherwise do all things necessary for the Developer to comply with its obligations under clause 6.2.

6.2 Registration of deed

- (a) As contemplated by section 93H of the Act, the Developer agrees to lodge this deed for registration under the Real Property Act in the relevant folios of the Register not later than 10 Business Days after the Minister provides to the Developer this deed duly executed by the Minister.
- (b) The Developer at its own expense, will take all practical steps and otherwise do anything to procure:
 - (i) the consent of each person who has an estate or interest in the Land registered under the Real Property Act or is seized or possessed or an estate or interest in the Land;

- (ii) the execution of any documents;
- (iii) the production of the relevant certificates of title; and
- (iv) the lodgement and registration of this deed, by the Registrar-General in the relevant folio of the Register, or in the General Register of Deeds if this deed relates to land not under the Real Property Act.

- (c) The Developer will provide the Minister with a copy of the relevant folios of the Register and a copy of the registered dealing referable to this deed within 10 Business Days of registration of this deed in accordance with this clause 6.2.

6.3 Release and discharge of deed

The Minister agrees to do all things reasonably required by the Developer to release and discharge this deed, in a timely fashion, with respect to the Land upon the Developer satisfying all of its obligations under this deed.

7 SECURITY

- (a) The Developer agrees to provide security to the Minister for the performance of the Developer's obligations under this deed by registering this deed on the title of the Land.
- (b) The Developer agrees to provide Bank Guarantees to the Minister in accordance with the terms and procedures set out in Schedule 5 to secure the payment of the Development Contributions.
- (c) The Guarantor agrees to provide all Bank Guarantees required under this deed to the Minister in accordance with the terms and procedures set out in Schedule 5 on the Developer's behalf.
- (d) The Guarantor acknowledges that if the Developer fails to perform the Developer's obligations under this deed, the Minister may call upon a Bank Guarantee in accordance with clause 4 of Schedule 5.
- (e) The Guarantor irrevocably authorises and directs the Minister to call upon the Bank Guarantee where the Minister has a right to do so under this deed.

8 DISPUTE RESOLUTION

8.1 Not commence

A party must not commence any court proceedings relating to a dispute unless it complies with this clause 8.

8.2 Written notice of dispute

A party claiming that a dispute has arisen under or in relation to this deed must give written notice to the other party specifying the nature of the dispute.

8.3 Attempt to resolve

On receipt of notice under clause 8.1, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or other techniques agreed by them.

8.4 Mediation

If the parties do not agree within 21 Business Days of receipt of notice under clause 8.2 (or any further period agreed in writing by them) as to:

- (a) the dispute resolution technique and procedures to be adopted;
- (b) the timetable for all steps in those procedures; or
- (c) the selection and compensation of the independent person required for such technique,

the parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of NSW. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

8.5 Court proceedings

If the dispute is not resolved within 60 Business Days after notice is given under clause 8.2 then any party which has complied with the provisions of this clause 8 may in writing terminate any dispute resolution process undertaken under this clause and may then commence court proceedings in relation to the dispute.

8.6 Not use information

The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this clause 8 is to attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this clause 8 for any purpose other than in an attempt to settle the dispute.

8.7 No prejudice

This clause 8 does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this deed.

9 GST

9.1 Definitions

Words used in this clause that are defined in the GST Legislation have the meaning given in that legislation.

9.2 Intention of the parties

The parties intend that:

- (a) Divisions 81 and 82 of the GST Legislation apply to the supplies made under and in respect of this deed; and
- (b) no additional amounts will be payable on account of GST and no tax invoices will be exchanged between the parties.

9.3 Reimbursement

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which any entity is entitled for the acquisition to which the cost, expense or amount relates.

9.4 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this deed are GST exclusive. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause 9.

9.5 Additional Amounts for GST

To the extent an amount of GST is payable on a supply made by a party under or in connection with this deed (**GST Amount**), the Recipient will pay to the Supplier the GST Amount. However, where a GST Amount is payable by the Minister as Recipient of the supply, the Developer will ensure that:

- (a) the Developer makes payment of the GST Amount on behalf of the Minister, including any gross up that may be required; and
- (b) the Developer provides a Tax Invoice to the Minister.

9.6 Non monetary consideration

Clause 9.5 applies to non monetary consideration.

9.7 Assumptions

The Developer acknowledges and agrees that in calculating any amounts payable under clause 9.5 the Developer will assume the Minister is not entitled to any input tax credit.

9.8 No merger

This clause will not merge on completion or termination of this deed.

10 ASSIGNMENT

This deed is personal to each party and neither party may assign the rights or benefits of this agreement to any person except:

- (a) to a related body corporate, after obtaining the consent of the other party, which the other party must not withhold if it is reasonably satisfied that the related body corporate has sufficient assets, resources and expertise to perform all of the assigning party's obligations under this deed; or
- (b) to any other person, with the prior consent of the other party, which the other party may give, give conditionally or withhold in its absolute discretion.

11 WARRANTIES OF CAPACITY AND LIMITATION

11.1 Each party warrants to each other party that this deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms.

11.2 Capacity of ACN 114 843 453 Pty Ltd

- (a) ACN 114 843 453 Pty Ltd (ACN 114 843 453) enters into this deed in its capacity as the trustee for the Eastern Creek Land Trust which owns that part of the Land comprising lot 1 in deposited plan 1145808.
- (b) ACN 114 843 453 Pty Ltd warrants that:
 - (i) it is the sole trustee of the Eastern Creek Land Trust and no action has been taken to remove or replace it;
 - (ii) it is authorised under the trust deed of the Eastern Creek Land Trust to enter into this deed;
 - (iii) it is not in breach of the trust deed of the Eastern Creek Land Trust; and
 - (iv) it has the power under the deed constituting the Eastern Creek Land Trust to execute and perform its obligations under this deed and all necessary action has been taken to authorise the execution and performance of this deed under the trust deed constituting the Eastern Creek Land Trust.

11.3 Capacity of ThaQuarry Pty Ltd

- (a) ThaQuarry Pty Ltd (ACN 119 533 372) enters into this deed in its capacity as the trustee for the ThaQuarry Unit Trust which owns that part of the Land comprising lot 4 in deposited plan 1145808.
- (b) ThaQuarry Pty Ltd warrants that:
 - (i) it is the sole trustee of the ThaQuarry Unit Trust and no action has been taken to remove or replace it;

- (ii) it is authorised under the trust deed of the ThaQuarry Unit Trust to enter into this deed;
- (iii) it is not in breach of the trust deed of the ThaQuarry Unit Trust; and
- (iv) it has the power under the deed constituting the ThaQuarry Unit Trust to execute and perform its obligations under this deed and all necessary action has been taken to authorise the execution and performance of this deed under the trust deed constituting the ThaQuarry Unit Trust.

11.4 Replacement Trustee

If the trustee of the Eastern Creek Land Trust or ThaQuarry Unit Trust is replaced in accordance with the trust deed of the relevant Trust, then:

- (a) the Minister and the replacement trustee will enter into a new deed on the same terms as this deed; and
- (b) the Minister and the outgoing trustee will release each other from the requirement to observe and perform any future obligation under this deed; and
- (c) the outgoing trustee will pay the reasonable costs and expenses of the Minister in relation to the replacement of a trustee under this clause and the costs and expenses of registering ant new deed on the title to the Land.

11.5 Power of attorney

If an attorney executes this Deed on behalf of any party, the attorney declares that it has no notice of the revocation of that power of attorney.

12 GENERAL PROVISIONS

12.1 Entire agreement

This deed constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

12.2 Variation

This deed must not be varied except by a later written document executed by all parties.

12.3 Waiver

A right created by this deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

12.4 Further assurances

Each party must promptly execute all documents and do everything necessary or desirable to give full effect to the arrangements contained in this deed.

12.5 Time for doing acts

(a) If:

(i) the time for doing any act or thing required to be done; or

(ii) a notice period specified in this deed,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

(b) If any act or thing to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

12.6 Governing law and jurisdiction

(a) The laws applicable in New South Wales govern this Deed.

(b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

12.7 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

12.8 Preservation of existing rights

The expiration or termination of this deed does not affect any right that has accrued to a party before the expiration or termination date.

12.9 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this deed for any reason, will not merge on the occurrence of that event but will remain in full force and effect.

12.10 Counterparts

This deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

12.11 Relationship of parties

Unless otherwise stated:

- (a) nothing in this deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

12.12 No fetter

Nothing in this deed will be construed as requiring the Minister to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing will be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

12.13 Explanatory note

The Explanatory Note must not be used to assist in construing this deed.

12.14 Expenses and stamp duty

- (a) The Developer must pay its own and the Minister's reasonable legal costs and disbursements capped at \$15,000 plus GST in connection with the negotiation, preparation, execution and carrying into effect of this deed.
- (b) The Developer must pay for all costs and expenses associated with the giving of public notice of this deed and the Explanatory Note in accordance with the Regulation.
- (c) The Developer must pay all stamp duty assessed on or in respect of this deed and any instrument or transaction required by or necessary to give effect to this deed.
- (d) On execution of this deed, the Developer must provide the Minister with a bank cheque in respect of the Minister's costs pursuant to clauses 12.14(a) and (b) above which have been notified to the Developer in writing.

12.15 Notices

Any notice, demand, consent, approval, request or other communication (notice) to be given under this deed must be in writing and must be given to the recipient at its Address for Service by being:

- (a) hand delivered;
- (b) sent by facsimile transmission.

A notice is given if:

- (c) hand delivered, on the date of delivery;
- (d) sent by facsimile transmission during any Business Day, on the date that the sending party's facsimile machine records that the facsimile has been successfully transmitted.

13 REVIEW OF DEVELOPMENT CONTRIBUTIONS

- (a) Despite anything else in this deed, if the Minister determines a Special Infrastructure Contribution that applies to the Land on a per hectare basis, then the Developer must pay to the Minister the Special Infrastructure Contribution amount in lieu of the Development Contributions in an amount not exceeding the Development Contribution amount. No further payment will be required relating to any portion of the Land in respect of which a Development Contribution has been paid pursuant to this deed.
- (b) In the event that a Special Infrastructure Contribution is determined which would result in a contribution payable in an amount less than the amount already paid as a Development Contribution under this deed:
 - (i) the Developer is not entitled to a refund for the difference between those amounts; but
 - (ii) the Developer may request a credit from the Director-General for the difference between those amounts which must be applied towards future Development Contribution instalments required under this deed.

SCHEDULE 1 – REQUIREMENTS UNDER SECTION 93F

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the deed comply with the Act.

Requirement under the Act	This deed
Planning instrument and/or development application (section 93F(1)) The Developer has: <ul style="list-style-type: none"> (a) sought to change to an environmental planning instrument (b) made, or proposes to made, a project application (c) entered into an agreement with, or is otherwise associated with, a person, to whom (a) or (b) applies 	No Yes No
Description of land to which this deed applies (section 93F(3)(a))	See Schedule 3
Description of the development to which this deed applies (section 93F(3)(b))	See definition of Development in clause 1.1
Scope, timing and manner of delivery of contribution required by this deed – (section 93F(3)(c))	Clause 3.1 and Schedule 4
Applicability of section 94 of the Act – (section 93F(3)(d))	Excluded in relation to the Development
Applicability of section 94A of the Act (section 93F(3)(d))	Excluded in relation to the Development
Applicability of section 94EF of the Act – (section 93F(3)(f))	Excluded
Consideration of benefits under this deed if section 94 applies – (section 93F(3)(e))	No
Mechanism for Dispute Resolution – section 93F(3)(f))	See clause 8
Enforcement of this deed – (section 93F(3)(g))	See clause 7
No obligation to grant consent or exercise functions (section 93F(9))	Clause 12.12

SCHEDULE 2 – ADDRESS FOR SERVICE

Minister for Planning

Contact: The Director-General
Address: Department of Planning, 23-33 Bridge Street, Sydney NSW 2000
Facsimile No: (02) 9228 6191

ACN 114 843 453 Pty Ltd

Contact: Mr Ian Malouf
Address: 32 Burrows Road, Alexandria NSW 2015
Facsimile No: (02) 9516 5559

ThaQuarry Pty Ltd

Contact: Mr Ian Malouf
Address: 32 Burrows Road, Alexandria NSW 2015
Facsimile No: (02) 9516 5559

Alexandria Landfill Pty Ltd

Contact: Mr Ian Malouf
Address: 32 Burrows Road, Alexandria NSW 2015
Facsimile No: (20) 9516 5559

SCHEDULE 3 – LAND

Lot and Deposited Plan
Lot 1 Deposited Plan 1145808
Lot 4 Deposited Plan 1145808

SCHEDULE 4 – DEVELOPMENT CONTRIBUTIONS

1. Development Contributions

The Developer undertakes to make the following Development Contributions in the manner set out in the table below. The Development Contribution is made on the basis of the Land areas in the deposited plan at the rate of \$150,000 per hectare.

Development Contribution	Manner of Delivery	Timing
First Contribution \$3,657,000	Cash contribution	Payable in instalments on dates below: (a) \$331,545 (receipt of which is acknowledged) payable upon the date the Project Approval was granted; (b) 15% plus \$34,155 payable upon the Operation Date (First Instalment); (c) 25% payable upon the first anniversary of the Operation Date (Second Instalment) ; (d) 25% payable upon the second anniversary of the Operation Date (Third Instalment) ; and (e) 25% payable upon the third anniversary of the Operation Date (Fourth Instalment).
Second Contribution \$4,545,000	Cash contribution	As set out in clause 2 of this Schedule.

2. Second Contribution

- (a) The Second Contribution relates to Development Contributions applicable to the Quarry Void and North Eastern Bund.
- (b) The Second Contribution must be paid in accordance with the terms of this clause.
- (c) Commencing on the second anniversary of the Operation Date and on or before each anniversary of the Operation Date thereafter, the Developer must pay annual instalments of \$227,250 (**Periodic Second Contribution Instalments**) until the Second Contribution is paid in full.

- (d) In addition to payment of the Periodic Second Contribution Instalments, within 5 Business Days of the grant of each Construction Consent, the Developer must pay as an instalment of the Second Contribution an amount determined in accordance with the following formula:

$$\$X = \$4,545,000 \times \frac{A}{30.3}$$

\$X is equal to the relevant instalment amount.

A is equal to the area of land over which the building is intended to be constructed under the relevant Construction Consent.

- (e) The final instalment of the Second Contribution is to be calculated in accordance with the following formula:

$$\$Z = \$4,545,000 - C - D$$

\$Z is equal to the final instalment of the Second Contribution.

C is equal to the sum of all of the annual instalments paid under clause 2(c) of this Schedule.

D is equal to the sum of all of the instalments paid under clause 2(d) of this Schedule.

SCHEDULE 5 – BANK GUARANTEES

1. Bank Guarantees

For the purpose of the table below in this clause 1, the following definitions apply:

First Contribution means the amount described as the 'First Contribution' in column 1 of the Development Contribution Table.

Second Contribution means the amount described as the 'Second Contribution' in column 1 of the Development Contribution Table.

Bank Guarantee	Time to provide Bank Guarantee
Bank Guarantee No. 1 - \$665,091	To be provided upon the date of this deed.
Bank Guarantee No. 2 - \$250,000	To be provided upon the second anniversary of the Operation Date.
Bank Guarantee No. 3 - \$250,000	To be provided upon the third anniversary of the Operation Date.

2. Provision of Bank Guarantees

The Developer must provide each Bank Guarantee to the Minister on or before the date specified in column 2 of the table in this Schedule 5. Each Bank Guarantee to the Minister must name the "Minister for Planning and Infrastructure and Department of Planning and Infrastructure ABN 38 755 709 681" as the relevant beneficiaries.

3. Bank Guarantee Amount in the event of Developer default

Despite anything else in this Schedule 5, if the Developer defaults in respect of the performance of the Developer's obligations under this deed:

- (a) the Developer must provide one Bank Guarantee for an amount equivalent to 100% of the balance of the Development Contributions payable under the deed less such amounts on account of any Bank Guarantees that are held by the Minister as at the date of the default; and
- (b) the Minister will be required to release the Bank Guarantee promptly following the date that the Developer has performed all obligations under this deed.

4. Claims under Bank Guarantee

The Developer agrees that the Minister may make claims under a Bank Guarantee provided by it on the following basis:

- (c) in relation to the Bank Guarantee securing the Developer's obligations to pay the Development Contribution pursuant to clause 4.1, the Minister may call upon that Bank Guarantee (in full or in part) in the event that the Developer breaches those obligations and retain and use such monies in her discretion to compensate the Minister for the Developer's breach of those obligations;
- (d) the Minister agrees not to make any claim under a Bank Guarantee without providing at least 10 Business Days' prior written notice to the Developer and the Guarantor of its intention to do so; and
- (e) the amount appropriated by the Minister under subclause (a) must be applied towards the costs and expenses incurred by the Minister in rectifying any default by the Developer under this deed.

5. Release of Bank Guarantee

- (a) Promptly following the date that the Developer provides the final instalment of the First Contribution the Minister will return to the Guarantor:

- (i) Bank Guarantee No. 1; or
- (ii) the remainder of any monies secured by Bank Guarantee No.1 (having regard to the Minister's right to call upon a Bank Guarantee under clause 4 of this schedule),

as the case may be.

(b) Promptly following the date that the Developer provides the second last instalment of the Second Contribution the Minister will return to the Guarantor:

- (i) Bank Guarantee No. 2; or
- (ii) the remainder of any monies secured by Bank Guarantee No. 2 (having regard to the Minister's right to call upon a Bank Guarantee under clause 3 of this schedule),

as the case may be.

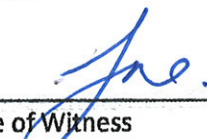
(c) Promptly following the date that the Developer provides the final instalment of the Second Contribution the Minister will return to the Guarantor:

- (i) Bank Guarantee No. 3; or
- (ii) the remainder of any monies secured by Bank Guarantee No. 3 (having regard to the Minister's right to call upon a Bank Guarantee under clause 4 of this schedule),

as the case may be.

EXECUTED AS A DEED

SIGNED SEALED & DELIVERED by **MINISTER FOR PLANNING AND INFRASTRUCTURE** in the presence of:

X 
Signature of Witness

X FELICITY NO.
Name of Witness

X 
Signature

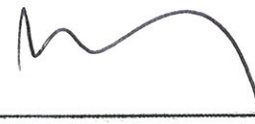
EXECUTED for and on behalf of **ACN 114 843 453 Pty Ltd (ACN 114 843 453)** in accordance with Section 127(1) of the *Corporations Act 2001*:

IAN MALOUF
Name of Sole Director/Secretary


Signature of Sole Director/Secretary

EXECUTED for and on behalf of **THAQUARRY Pty Ltd (ACN 119 533 372)** in accordance with Section 127(1) of the *Corporations Act 2001*:

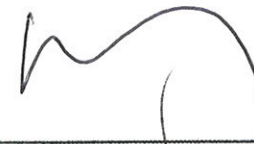
IAN MALOUF
Name of Sole Director/Secretary


Signature of Sole Director/Secretary

EXECUTED for and on behalf of **Alexandria Landfill Pty Limited (ACN 098 849 971)** in accordance with Section 127(1) of the *Corporations Act 2001*:

IAN MALOUF
Name of Sole Director/Secretary

Name of Sole Director/Secretary


Signature of Sole Director/Secretary

Signature of Sole Director/Secretary

Annexure A

[illegible]

afw
1/4/12