

Deed of Amendment to Planning Agreement

Parties

Minister for Planning and Public Spaces
(ABN 20 770 707 468)

Minister administering the National Parks and Wildlife Act 1974
(ABN 30 841 387 271)

Coal & Allied Operations Pty Ltd
(ABN 16 000 023 656)

Catherine Hill Bay Land Pty Ltd
(ABN 79 129 266 459)

Wallalong Land Developments Pty Limited (ACN 158 521 567) **as trustee**
for Catherine Hill Bay Honey Unit Trust (ABN 96 937 703 587)

Lake Maintenance (NSW) Pty Ltd
(ACN 088 782 718)

Reference: VPA # 2011/4221

Catherine Hill Bay



X
X



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Date

16 April 2020



Parties

MINISTER FOR PLANNING AND PUBLIC SPACES (ABN 20 770 707 468)
(Planning Minister)

MINISTER ADMINISTERING THE NATIONAL PARKS AND WILDLIFE ACT 1974
(ABN 30 841 387 271)
(Environment Minister)

COAL & ALLIED OPERATIONS PTY LTD (ABN 16 000 023 656) AND
CATHERINE HILL BAY LAND PTY LTD (ABN 79 129 266 459)
(together, the **Former Landowner**)

LAKE MAINTENANCE (NSW) PTY LTD (ACN 088 782 718) AND
WALLALONG LAND DEVELOPMENTS PTY LIMITED (ACN 158 521 567) as
Trustee for **CATHERINE HILL BAY HONEY UNIT TRUST** (ABN 96 937 703 587)
(together, the **Landowner**)

Introduction

- A** On 22 March 2012, the Former Landowner entered into the Planning Agreement with the Planning Minister and the Environment Minister.
- B** On 28 July 2017, the Planning Agreement was novated from the Former Landowner to the Landowner pursuant to the Novation Deed.
- C** The parties have agreed to amend the Planning Agreement, as set out in this deed.

It is agreed

1 Definitions and interpretation

1.1 Definitions

In this deed:

- (1) **Planning Agreement** means the voluntary planning agreement dated 22 March 2012 between the Planning Minister, the Environment Minister and the Former Landowner relating to land known as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 in Deposited Plan 118018, as novated and amended by the Novation Deed.
- (2) **Novation Deed** means the Deed of Novation of Planning Agreement dated 28 July 2017 between the Planning Minister, the Environment Minister, the Former Landowner and the Landowner.
- (3) **Side Letter** means the deed poll dated 28 July 2017 executed by the Former Landowner and the Landowner and in favour of the Planning Minister and the Environment Minister, relating to the satisfaction of the Weed Obligation.



- (4) **Weed Obligation** means the obligation of the Former Landowner under the Planning Agreement to, amongst other things, treat the aquatic weed infestation including initial harvesting and successive treatments for 3 years, at a cost of \$80,000.00.

1.2 Interpretation

- (1) Expressions and phrases used but not defined in this deed will have the same meanings as they have in the Planning Agreement unless the context clearly indicates a contrary intention.
- (2) Clause 1.2 of the Planning Agreement applies to the interpretation and construction of this deed.

2 Amendment to Planning Agreement

2.1 Amendment

On and from the date of this deed, the Planning Agreement is amended as set out in this clause 2.

2.2 Definitions

Clause 1.1 of the Planning Agreement is amended to insert the following definition:

“**Amendment Deed** means the Deed of Amendment to Planning Agreement between the Planning Minister, the Environment Minister, Coal & Allied Operations Pty Ltd, Catherine Hill Bay Land Pty Ltd, Lake Maintenance (NSW) Pty Ltd and Wallalong Land Developments Pty Limited as trustee for Catherine Hill Bay Honey Unit Trust.”

2.3 Schedule 3

The text in the last row in the table entitled ‘Table 2 of Schedule 3 – Other Contributions’ in Schedule 3 to the Planning Agreement is deleted and replaced with the following:

ITEM 3: LAND REMEDIATION AND RESERVATION ESTABLISHMENT WORKS The Landowner must: • undertake the works referred to in clauses 6.1 and 6.2 of Schedule 4; and • provide the monetary contribution referred to in clause 6.3 of Schedule 4.	In accordance with the process set out in clause 6 of Schedule 4.
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2.4 Schedule 4

- (1) Item 4 in the table at clause 6.2(b) of Schedule 4 to the Planning Agreement is deleted.

- (2) A new clause 6.3 is inserted in Schedule 4 to the Planning Agreement after clause 6.2 as follows:

“6.3 Payment of monetary contribution in lieu of treatment of aquatic weed infestation

The Landowner must pay a monetary contribution in the amount of \$80,000 to the Environment Minister upon execution of the Amendment Deed.”

- (3) The table in clause 7 of Schedule 4 to the Planning Agreement is deleted and replaced with the following table:

Favouree	Bank Guarantee Amount	Secured Obligation
‘Minister for Planning’ and ‘Department of Planning and Environment’	\$21,754.89	Landowner’s obligations under clauses 2 and 5 of this Schedule 4.
‘Minister for Planning’ and ‘Department of Planning and Environment’	\$739,423.50	Landowner’s obligations under clause 3 of this Schedule 4.

3 Return of bank guarantee

- (1) The Environment Minister acknowledges that the Former Landowner provided to it a bank guarantee in favour of the Environment Minister for \$280,000.00 to secure, amongst other things, the Former Landowner's obligations in relation to the Weed Obligation (**Bank Guarantee**).
- (2) Upon receipt of the monetary contribution referred to in clause 6.3 of the Planning Agreement, the Environment Minister must return to the Former Landowner the original Bank Guarantee.

4 Trustee Landowner

Clause 3 of the Novation Deed is incorporated as though it was fully set out in this deed.

5 Registration of this deed

- 5.1 As contemplated by section 93H of the Act, the Landowner agrees to lodge this deed for registration under the Real Property Act in the relevant folios of the Register for all of the Land upon which the Planning Agreement is registered, within 10 Business Days after the date on which a counterpart of this deed which the Minister has executed is returned to the Landowner.
- 5.2 The Landowner will provide the Minister with a copy of the relevant folio of the Register and a copy of the registered dealing which provide evidence that clause 4.1 has been satisfied, within 10 Business Days after the date of registration.

6 General

This deed, the Novation Deed, the Side Letter and the Planning Agreement constitute the entire agreement between the parties regarding the matters set out in those documents and supersede any prior representations, understandings or arrangements between the parties, whether orally or in writing.

7 Expenses

- 7.1 The Landowner must pay the Planning Minister's and the Environment Minister's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this deed.
- 7.2 The Landowner 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.
- 7.3 The Landowner must pay all taxes assessed on or in respect of this deed and any instrument or transaction required or contemplated by or necessary to give effect to this deed (including stamp duty and registration fees, if applicable).
- 7.4 The Landowner must provide the Planning Minister with bank cheques in respect of the costs and expenses referred to in clauses 7.1 and 7.2 above:
- (1) where the Planning Minister has provided the Landowner with written notice of the sum of such costs prior to execution, on the date of execution of this deed; or
 - (2) where the Planning Minister has not provided the Landowner with prior written notice of the sum of such costs prior to execution, within 10 Business Days of demand by the Planning Minister for payment.

8 Satisfaction of obligation to pay monetary contribution in clause 6.3 of Schedule 4

- 8.1 The Former Landowner has agreed with the Landowner that the Former Landowner will provide the monetary contribution required by clause 6.3 of Schedule 4 to the Planning Agreement.
- 8.2 The Minister agrees that the obligation in clause 6.3 of Schedule 4 to the Planning Agreement may be discharged by the Former Landowner on behalf of the Landowner.

9 Variations not to affect accrued rights and obligations

9.1 The variations to the Planning Agreement do not affect the validity or enforceability of the Planning Agreement as varied.

9.2 Nothing in this deed:

- (1) prejudices or adversely affects any right, power, authority, discretion or remedy arising under the Planning Agreement before the date of this deed; or
- (2) discharges, releases or otherwise affects any liability or obligation arising under the Planning Agreement before the date of this deed.

10 Confirmation

Upon execution of this deed by the parties, each party (other than the Former Landowner) is bound by the Planning Agreement as amended by this deed.

Execution pages

Executed as a deed.

Signed sealed and delivered for and on
behalf of the **Minister for Planning and Public Spaces**
(ABN 20 770 707 468)
in the presence of:



Signature of Witness

Thomas Holmes

Name of Witness in full

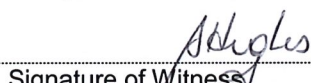


Signature as delegate of the Minister for
Planning and Public Spaces

BRETT WHITWORTH

Full name of delegate

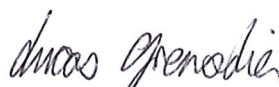
Signed sealed and delivered for and on
behalf of the **Minister administering the**
National Parks and Wildlife Act 1974
in the presence of:



Signature of Witness

Bernadette Hughes

Name of Witness in full



Signature as delegate of the Minister
administering the National Parks and Wildlife
Act 1974

LUCAS GRENADIER

Full name of delegate

Executed as a deed in accordance with section
127 of the *Corporations Act 2001* by **Coal &**
Allied Operations Pty Ltd (ABN 16 000 023
656)



Signature of Secretary/Director

Lei Zhang

Full name

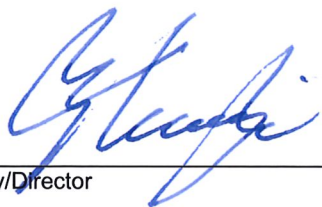


Signature of Secretary/Director

Reinhold Schmidt

Full name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **Catherine Hill Bay Land Pty Ltd** (ABN 79 129 266 656)



Signature of Secretary/Director

Lei Zhang

Full name



Signature of Secretary/Director

Reinhold Schmidt

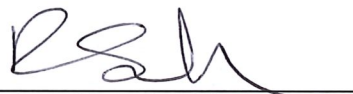
Full name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **Wallalong Land Developments Pty Limited** (ACN 158 521 567) as trustee for the **Catherine Hill Bay Honey Unit Trust** (ABN 96 937 703 587)



Signature of Secretary/Director

Full name **DARREN KEITH NICHOLSON**



Signature of Secretary/Director

Full name **RICCI ANN SCHWARZLER**

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **Lake Maintenance (NSW) Pty Ltd** (ACN 088 782 718)



Signature of Secretary/Director

Full name **DARREN KEITH NICHOLSON**



Signature of Secretary/Director

Full name **RICCI ANN SCHWARZLER**