

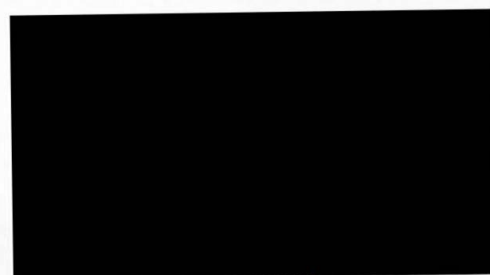
The Minister administering the *Biodiversity Conservation Act 2016* (NSW)

And

Vale Nominee Pty Ltd (as the Landowner)

# **Biodiversity Certification Agreement**

*Biodiversity Conservation Act 2016* (NSW)



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Agreement made on 10 February 2023

**Parties** Minister for Environment and Heritage as the Minister administering the *Biodiversity Conservation Act 2016* (NSW) (the Minister)

and

Vale Nominee Pty Ltd (ABN 12 650 026 887) (as the current Landowner)

### Background

- A. On 16 May 2022, Vale Nominee Pty Ltd made an application for Biodiversity Certification (**Biodiversity Certification Application**) for land at 77 – 91 Warnervale Road Warnervale, within the Central Coast local government area, being Lot 72 DP 7091 (**the Biodiversity Certification Assessment Area**) under Part 8 of the BC Act.
- B. The Landowner is the registered proprietor of the Biodiversity Certification Assessment Area.
- C. The Biodiversity Certification Application relates to the proposed residential subdivision of the Biodiversity Certification Assessment Area.
- D. The BCAR identified proposed conservation measures and commitments including:
1. the retirement of:
    - i. 26 Ecosystem Credits for impacts to PCT 1619
    - ii. 36 Species Credit for impact to the Squirrel Glider
    - iii. 36 Species Credits for impact to the Southern Myotis
  2. the preparation and implementation of a Biodiversity Management Plan to protect vegetation and fauna habitat in the Avoided Land; and
  3. that the Avoided Land be retained within a single lot and not further subdivided.
- E. The retirement of Biodiversity Credits is to be delivered in accordance with an order for Biodiversity Certification.
- F. This Agreement will be registered on the title of the Biodiversity Certification Assessment Area. It will apply to the Avoided Land and all Subsequent Lots created by the subdivision of the Biodiversity Certification Assessment Area, including Subsequent Lots.
- G. Parts of the Agreement apply to the Landowner during the Development Phase, while parts will continue to apply to the Subsequent Lot Landowner in relation to the Avoided Land only during the Occupation Phase.

### Operative provisions

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## 1. Definitions and Interpretation

### 1.1 Definitions

In this Agreement, unless the context indicates otherwise:

**Agreement** means this Agreement titled 'Biodiversity Certification Agreement' and includes all schedules.

**Annual Report** means a report in a format determined by the Environment Agency Head and contains reporting requirements as determined by the Biodiversity Management Plan.

**Avoided Land** means the land within the Biodiversity Certification Assessment Area identified as Avoided Land in Schedule 1 of this Agreement.

**BC Act** means the *Biodiversity Conservation Act 2016* (NSW).

**BC Regulation** means the *Biodiversity Conservation Regulation 2017* (NSW).

**Biodiversity Certification** has the same meaning as in section 8.2 of the BC Act.

**Biodiversity Certification Assessment Area** means the land identified as the Biodiversity Certification Assessment Area with a heavy dotted border in Schedule 1 to this Agreement and has the meaning given in Recital A.

**Biodiversity Certification Application** has the meaning given in Recital A.

**Biodiversity Certification Assessment Report (BCAR)**: means the biodiversity certification assessment report within the meaning of the BC Act dated 17 August 2022 prepared by Cumberland Ecology Pty Ltd for the purposes of the Biodiversity Certification Application.

**Biodiversity Credit** means a biodiversity credit created under Part 6 Division 4 of the BC Act and includes a reference to an ecosystem credit and a species credit.

**Biodiversity Management Plan** means the plan contemplated by the BCAR and approved under clause 5.2 of this Agreement which will apply to the Certified Land during the Development Phase and the Avoided Land in perpetuity.

**Business Day** means any day except for Saturday or Sunday or a day which is a public holiday in Sydney.

**Certified Land** means the Biodiversity Certification Assessment Area on which Biodiversity Certification may be conferred under Part 8 of the BC Act, being identified as the 'land proposed for certification' in Schedule 1 of this Agreement.

**Clearing** has the same meaning as in section 60C of the *Local Land Services Act 2013*.

**Consent Authority** has the same meaning as in division 4.2 of the *Environmental Planning and Assessment Act 1979*.

**Department** means the NSW Department of Planning and Environment and any name it may be known by in the future.

**Development** has the same meaning as in the *Environmental Planning and*

*Assessment Act 1979.*

**Development Completion** means, in respect of each individual Subsequent Lot, completion of the development, triggered by the registration of a plan of subdivision for the Certified Land.

**Development Phase** means, in respect of each individual Subsequent Lot, the period from the Effective Date until Development Completion for that Subsequent Lot.

**Effective Date** means the date on which Biodiversity Certification is conferred by the Minister on the Certified Land.

**Environment Agency Head** has the meaning given in section 6.1 of the BC Act.

**Force Majeure Event** means an event that is beyond the reasonable control of the Landowner, including any natural disaster, fire, flood, accident, war, riot, act of terrorism, biohazard, a serious epidemic, or a change in legislation, but only to the extent that such events were beyond the Landowner's reasonable control. A force majeure event does not include any obligation to pay money, a labour dispute or shortage of materials or labour. **Landowner** means, at the date of this Agreement, Vale Nominee, but excludes the Subsequent Lot Landowners.

**Landowner** means Vale Nominee at the time of this agreement, or any other party to whom the land the subject of the Biodiversity Certification Assessment Area is transferred, disposed of or sold.

**Minister** means the Minister of the State of New South Wales administering the BC Act and includes his or her successors in office and where appropriate includes the servants and agents of the Minister.

**Occupation Phase** means, in respect of each individual Subsequent Lot, the period commencing on the issue of a subdivision certificate for the Certified Land.

**Party** means a Party to this Agreement and includes a person or persons taken to be Parties to this Agreement by operation of section 8.17 of the BC Act.

**PCT** means a NSW plant community type identified using the PCT classification system in NSW BioNet. .

**Registrar-General** has the same meaning as in the *Real Property Act 1900* (NSW).

**Subsequent Lot** means a lot created in the Biodiversity Certification Assessment Area as a result of a subdivision approved under the *Environmental Planning and Assessment Act 1979*.

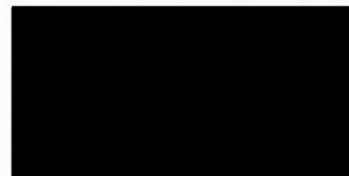
**Subsequent Lot Landowner** means the registered proprietor of a Subsequent Lot.

**Vale Nominee** means Vale Nominee Pty Ltd ABN 12 650 026 887.

## 1.2 Interpretation

In this Agreement:

- (a) headings are for convenience only and do not affect interpretation;





and unless the context indicates a contrary intention:

- (b) **person** includes an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to a Party includes that Party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;
- (d) a reference to a document is to that document as varied, novated, ratified or replaced from time to time;
- (e) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (f) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (g) a reference to a Party, clause, schedule, exhibit, attachment or annexure is a reference to a Party, clause, schedule, exhibit, attachment or annexure to or of this Agreement, and a reference to this Agreement includes all schedules, exhibits, attachments and annexures to it;
- (h) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (i) includes in any form is not a word of limitation;
- (j) where a schedule contains obligations of any Party then the obligation so expressed shall be read and construed and shall constitute obligation on the part of the relevant Party, as the case may be, to be performed or observed under this Agreement;
- (k) neither this Agreement 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;
- (l) if a Party to this Agreement is subsequently made up of more than one person:
  - (i) an obligation of those persons is joint and several;
  - (ii) a right of those persons is held by each of them severally; and
  - (iii) any references to that Party is a reference to each of those persons separately, so that (for example), a representation, warranty or undertaking is given by each of them separately.

### 1.3 Agreement to run with the land

In accordance with section 8.17 of the BC Act, when registered by the Registrar-General, this entire Agreement is binding on and is enforceable against the following:

- (a) For the Certified Land - the Landowner of the Certified Land is bound by this Agreement during the Development Phase and until the commencement of the Occupation Phase; and
- (b) For the Avoided Land – the Landowner or (The Subsequent Lot Landowner(s)) of the Avoided Land is bound by this Agreement indefinitely.

Note: Subject to the operation of Clause 1.3, pursuant to section 8.17(1) and (5) of the BC Act, on creation of the Subsequent Lots, the Subsequent Lot Landowners of the Avoided Land will become Parties to this Agreement and will be bound by the obligations imposed on them in this Agreement.

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## **2. Commencement and Term**

- (a) This Agreement is to be executed by the Parties and held in escrow by the Department prior to the Effective Date.
- (b) This Agreement shall become effective on the Effective Date.
- (c) Subject to clause 6.3, this Agreement has effect indefinitely.

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## **3. Status of this Agreement**

- (a) The Parties agree that this Agreement:
  - (i) is a Biodiversity Certification Agreement within the meaning of Part 8 of the BC Act; and
  - (ii) establishes the obligations of the Landowner and the Subsequent Lot Landowners in the Biodiversity Certification Assessment Area.
- (b) For the purposes of clause 5.1(1)(c) of the BC Regulation, the Minister advises that the legal obligations created under this Agreement:
  - (i) are not created for biodiversity offset purposes; and
  - (ii) do not make provision for biodiversity offsets.
- (c) Subject to clause 6.3, this Agreement has effect indefinitely.

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## **4. Registration of this Agreement and Notice to Purchasers**

- (a) The Landowner agrees to use its best endeavours, and at its own expense, to lodge or arrange for the lodgement of this Agreement in registrable form with the Registrar-General within ten (10) Business Days of the Effective Date in order to secure the registration of this Agreement on the title to the Biodiversity Certification Assessment Area.
- (b) The Landowner, at its own expense and risk, must take all practicable steps and otherwise do anything the Minister reasonably requires, to procure:
  - (i) the execution of any documents necessary to enable registration



of the Agreement on the title to the Biodiversity Certification Assessment Area; and

- (ii) the registration of this Agreement by the Registrar-General in the relevant folios of the register as soon as possible after lodgement of the Agreement for registration under clause 4(a).
- (c) The Landowner, within 21 days of registration of this Agreement on the title to the Biodiversity Certification Assessment Area, must provide the Minister with evidence of registration of this Agreement.
- (d) The Landowner agrees to provide notice of this Agreement to purchasers of any land in the Biodiversity Certification Assessment Area where the Agreement applies.

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## **5. Development Phase**

### **5.1 Landowner obligations**

The Landowner agrees to:

- (a) comply with all relevant obligations of The Landowner set out in this Agreement.
- (b) not commence any Development in the Biodiversity Certification Assessment Area until:
  - (i) The Landowner receives written notice from the Department that the Biodiversity Management Plan has been approved by the Department.
- (c) within six (6) months of the Effective Date, prepare and submit to the Department for approval a draft Biodiversity Management Plan to apply to the Certified Land during the Development Phase, and the Avoided Land in perpetuity. The Biodiversity Management Plan is to include matters identified in section 8.5.9 of the BCAR, unless otherwise agreed with the Department.
- (d) assume the reporting responsibilities of the Landowner detailed in clause 5.7 of this Agreement until completion of the Development Phase.
- (e) take measures to implement the Biodiversity Management Plan immediately upon approval until the completion of the Development Phase.

### **5.2 Approval of Biodiversity Management Plan**

- (a) The Department will, in good faith, make all reasonable attempts to approve a draft Biodiversity Management Plan within three months of the draft Biodiversity Management Plan being submitted to the Department by The Landowner. If the Draft Biodiversity Management Plan is not approved, the Department will provide reasons why it is not approved.
- (b) If the Department approves the Biodiversity Management Plan, it will

provide written notice of this approval to the Landowner.

### **5.3 Disturbance to Avoided Land**

During the Development Phase, the Landowner must:

- (a) ensure that there is no disturbance of the Avoided Land, including the removal of any native vegetation, fallen timber or habitat, or any earthworks, from the Avoided Land; and
- (b) upon completion of the Development Phase, comply with the Biodiversity Management Plan.

### **5.4 Reasonable steps**

The Landowner agrees to take all reasonable steps to ensure that persons who enter or intend to enter the Avoided Land comply with the Landowner's obligations referred to in clause 5.3.

### **5.5 Clearing**

The Parties acknowledge that clauses 5.3 and 5.4 apply, despite any legislation, regulation, rule or code which provides that the Landowner is permitted to Clear vegetation on the Avoided Land.

### **5.6 Effect of overlapping obligations in the Development and Occupation Phases**

Clauses 5.3, 5.4 and 5.5 are effective until such time that the Occupation Phase commences for a Subsequent Lot. Upon commencement of the Occupation Phase for a Subsequent Lot, these obligations become the obligations of the Subsequent Lot Landowner.

### **5.7 Reporting requirements of the Landowner**

- (a) During the period from the Effective Date to Development Completion, the Landowner must complete and submit an Annual Report in the form requested by, and to the satisfaction of, the Environment Agency Head.
- (b) An Annual Report must be prepared for each reporting period. A reporting period means the period of 12 months after the Effective Date, and each subsequent period of 12 months:
  - (i) five years from the date of this Agreement; or
  - (ii) until Development Completion;whichever is the latter.
- (c) The Annual Report for the reporting period must be provided to the Environment Agency Head within 60 days after the end of each reporting period.

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## **6. Occupation Phase**

## **6.1 Land management obligations**

The Landowner and any Subsequent Lot Landowner of the Avoided Land must comply with:

- (a) all relevant obligations of Subsequent Lot Landowners set out in clauses 5.3, 5.4, 5.5 and 6.2 to this Agreement; and
- (b) the approved Biodiversity Management Plan;

in relation to conservation and management of the Avoided Land.

## **6.2 Prohibition on subdivision of Avoided Land**

- (a) The Parties acknowledge and agree that the Avoided Land must be retained as a single lot to conserve the biodiversity values of the Avoided Land.
- (b) A Subsequent Lot Landowner of the Avoided Land must not cause the subdivision of the Avoided Land.
- (c) To avoid doubt, this clause 6.2 does not prevent the subdivision of the Biodiversity Certification Assessment Area during the Development Phase, provided that the Avoided Land is retained as one lot as shown in Schedule 1 to this Agreement.

## **6.3 Agreement does not apply to Certified Land in Occupation Phase**

- (a) This Agreement does not apply to the Certified Land in the Occupation Phase.
- (b) The parties agree that this Agreement is to be removed from the certificate of title of all Subsequent Lots in relation to the Certified Land at the commencement of the Occupation Phase. The parties agree to use all best endeavours to do all things necessary to remove this Agreement from the certificate of title for all Subsequent Lots in relation to the Certified Land at the commencement of the Occupation Phase.
- (c) The Minister or his delegate must take all practicable steps to execute documents necessary to enable removal of the Agreement on the title to the Certified Land, at the commencement of the Occupation Phase, and provide these documents to the Landowner for lodgement with the Registrar-General.
- (d) Upon receipt of the documentation referred to in clause 6.3(c), the Landowner must procure the removal of this Agreement by the Registrar-General in the relevant folios of the register of the Certified Land as soon as possible at the commencement of the Occupation Phase at its sole cost.
- (e) The Landowner, within 21 days of registration of the removal of this Agreement on the title to a lot within the Certified Land, must provide the Minister with evidence of the removal of this Agreement from the title of that lot.

- (f) This clause 6.3 does not impact the application of this Agreement to the Certified Land during the Development Phase.

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## 7. Biodiversity Stewardship Sites

In the event of any inconsistency between this Agreement and a Biodiversity Stewardship Agreement entered into over the Avoided Land, the Biodiversity Stewardship Agreement will prevail.

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## 8. Enforcement

- (a) The Parties acknowledge that the Minister has rights under the BC Act and at law in the event of a default by the Landowner under this Agreement, including rectification rights.
- (b) In accordance with section 13.16 of the BC Act, and without limiting other remedies available to the Minister, the Minister or a person acting with the written consent of the Minister, may bring proceedings in the Land and Environment Court for an order to remedy or restrain a contravention of this Agreement.

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## 9. Permissions, consents and authorisations

- (a) Each Party to this Agreement is responsible for obtaining all necessary licences, consents, authorisations, permits or approvals in order to lawfully comply with and carry out its obligations under this Agreement.
- (b) Each Party to this Agreement agrees that this Agreement may be executed electronically in accordance with the *Electronic Transactions Act 2000 (NSW)*.

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## 10. Force Majeure

- (a) In relation to a Force Majeure Event, the Landowner and any Subsequent Lot Landowner is:
- (i) not required to comply with its obligations under this Agreement; and
  - (ii) is not liable for any loss or liability suffered or incurred by the Minister as a result of the Landowners' or Subsequent Lot Landowners' inability to comply with its obligations,
  - (iii) to the extent that the Landowner is prevented from complying, or its ability to comply is delayed, due to a Force Majeure Event. This applies so long as the Force Majeure Event continues to prevent the Landowner or Subsequent Lot Landowner from complying.
- (b) If the Landowner's or Subsequent Lot Landowner's ability to comply with its obligations under this Agreement is affected by a Force Majeure Event it must:
- (i) promptly notify the Minister, in accordance with clause 17, as soon as it becomes aware that it is (or is likely to be) so affected, giving reasonable details of the Force Majeure Event and the obligations that will be affected;



- (ii) take all reasonable steps to prevent, limit and minimise the effect of the Force Majeure Event on the Landowner's and Subsequent Lot Landowners' obligations and comply again with its obligations as soon as reasonably possible; and
- (iii) keep the Minister informed of the expected duration of the Force Majeure Event and the steps taken to comply with clause 10(b)(i).

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## 11. Dispute resolution

- (a) Where there is a dispute, difference or claim ("Dispute"), the Party raising the dispute must notify the other Parties of the nature of the Dispute, including the factual and legal basis of the Dispute.
- (b) Within 14 days of the notice, the Parties, or nominated senior representatives of the Parties, must confer to attempt to resolve the Dispute, and if the Dispute cannot be resolved within 21 days of the written notice, the Parties will refer the matter to mediation.
- (c) The Parties will agree on a mediator, the terms of appointment of the mediator and the terms of the mediation in writing within 28 days of the referral of the matter to mediation under clause 10(b). If they cannot agree on those matters, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- (d) If the matter has not been resolved within 28 days of the appointment of the mediator, the mediation process will be at an end and any Party may commence court proceedings in respect of the Dispute.
- (e) Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- (f) The Parties are to share equally the costs of the President (if any), the mediator and the mediation.

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## 12. GST

- (a) The Parties to this Agreement acknowledge and agree that for any taxable supply made by one Party to another Party under this Agreement the Party which has received the supply will on receipt of a tax invoice from the supplier make a payment to the supplier that covers both the value of the supply and the GST liability of the Party that has made the supply.
- (b) This clause will not merge on completion or termination of this Agreement.
- (c) Words used in this clause that are defined in the GST Law have the meaning given in that legislation. GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.



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**13. Releases and indemnities**

- (a) Each Party to this Agreement agrees to carry out their obligations under this Agreement at their own risk.
- (b) Each Party, other than the Minister (severally, not jointly), agrees to release and indemnify the Minister from any claim, liability or loss arising from, and costs incurred in connection with a breach of the respective obligations of the Party under this Agreement except to the extent caused or contributed to by the Minister's negligent act or default under this Agreement.
- (c) The indemnity in clause 12(b) is a continuing obligation, independent of the other obligations of the Party under this Agreement and continues after the Agreement ends.

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**14. Costs**

Subject to clause 12, each Party bears its own costs in connection with the preparation and execution of this Agreement.

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**15. General provisions****15.1 Prior representations**

No Party can rely on an earlier document, anything said or done by another Party, or by an authorised officer, agent or employee of that Party, before the Agreement was executed.

**15.2 Further acts**

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

**15.3 Governing law and jurisdiction**

This Agreement is governed by the laws of the State of New South Wales and the Parties agree to submit to the jurisdiction of the courts of that State.

**15.4 No fetter**

- (a) Without prejudice to or limiting the express obligations that each Party has agreed to perform under this Agreement, this Agreement is not intended to operate to fetter, in any unlawful manner:
  - (i) the sovereignty of the Parliament of the State of New South Wales to make any law;
  - (ii) the power of the Executive Government of the State of New South Wales to make any statutory rule; or
  - (iii) the exercise of any statutory power or discretion of any Minister of the State.

- (b) Nothing in this Agreement is to be construed as requiring any Party to do anything that would cause it to be in breach of any of its obligations at law, and without limitation and nothing in this Agreement is to be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

**15.5 No joint venture, etc.**

Unless otherwise stated:

- (a) nothing in this Agreement 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.

**15.6 Representations and warranties**

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under this Agreement.

**15.7 Severability**

- (a) If any part of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- (b) If any part of this Agreement is illegal, unenforceable or invalid, that part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

**15.8 Variation**

No variation of this Agreement will be of any force or effect unless it is in writing and signed by all the Parties.

**15.9 Waiver**

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation of, or a breach of obligation by, another Party.
- (b) A waiver by a Party is only effective if it is in writing.
- (c) A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

**15.10 Good faith**

Each Party must act in good faith towards all other Parties and use its best endeavours to comply with the spirit and intention of this Agreement.

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## 16. Publication

Each Party acknowledges that a copy of this Agreement is to be published on a NSW government website maintained by the Environment Agency Head in accordance with clause 8.5 of the *Biodiversity Conservation Regulation 2017*.

The Environment Agency Head will restrict access to all personal information contained in this Agreement in accordance with the *Privacy and Personal Information Protection Act 1998*.

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## 17. Notices

### 17.1 Form

Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing delivered, posted or sent by electronic service address to that Party at its addresses set out below.

#### The Minister

Address: Environment and Heritage Group  
Department of Planning and Environment  
Locked Bag 5022  
PARRAMATTA NSW 2124

Attention: 

Telephone: 

Email address: 

#### The Landowner

Address: Vale Nominee Pty Ltd

Attention: 

Telephone: 

Email address: 

### 17.2 Change in details

The name or title of the nominated officer or the address for the Parties referred to in clause 17.1 above may be updated from time to time by written notice being sent to the other Parties by the Party (which in the case of the Minister may include an officer of the Department) advising of the new officer (or title of an

office) and address to which such documents, information or notification may be sent.

### **17.3 Receipt**

- (a) Any notice, consent, information, application or request is to be treated as given or made at the following time:
  - (i) if it is delivered, when it is left at the relevant address;
  - (ii) if it is sent by post, two (2) Business Days after it is posted (unless the contrary is proved); or
  - (iii) If it is sent by electronic service address, by transmitting an electronic copy of the document to that address
- (b) If any notice, consent, information, application or request is delivered or sent by electronic service address, on a day that is not a Business Day or after 5pm on any Business Day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.







**Executed as an agreement under section 8.16 of the BC Act**

Executed on behalf of the Honourable James Griffin, MP  
Minister for Environment and Heritage for the State of  
New South Wales as the Minister administering the  
*Biodiversity Conservation Act 2016 (NSW)*



Delegate for the Hon. James Griffin, MP.  
Minister for Environment and Heritage

  
Name of Witness in full (written in block letters)

  
Signature of Witness

Executed by Vale Nominee Pty Ltd (ABN 12 650 026  
887) in accordance with s127 of the *Corporations Act  
2001 (Cth)*

  
Signature of Director

  
Name of Director

  
Signature of Director/Secretary

  
Name of Director/Secretary