

Deed of Amendment

BIG ISLAND MINING PTY LTD (ABN 12 112 787 470)

and

QUEANBEYAN-PALERANG REGIONAL COUNCIL

This Deed is made on 23rd April 2021 (**Amendment Deed**) between:

BIG ISLAND MINING PTY LTD (ABN 12 112 787 470) of Level 17, 144 Edward Street, Brisbane QLD 4000 (BIM)

and

QUEANBEYAN-PALERANG REGIONAL COUNCIL of 256 Crawford St, Queanbeyan, NSW 2620 (QPRC).

RECITALS

- A. BIM and QPRC entered into a planning agreement under Section 93F (now Section 7.4) of the *Environmental Planning and Assessment Act 1979* on 15 February 2013 (**2013 Agreement**) for the Development.
- B. Since signing the 2013 Agreement, BIM has yet to complete the Development and has agreed with QPRC to vary the 2013 Agreement on the terms set out in this Amendment Deed and as amended in mark-up in the conformed version of the 2013 Agreement at Annexure A.

OPERATIVE PROVISIONS

1. Definitions and interpretation

1.1 Definitions in the 2013 Agreement

Capitalised terms which are not defined in this Amendment Deed but are defined in the 2013 Agreement have the same meaning in this Amendment Deed as in the 2013 Agreement.

1.2 Interpretation

Unless context requires otherwise, the rules of interpretation set out in the 2013 Agreement apply in respect of this Amendment Deed.

2. Operation of Amendment Deed

2.1 Commencement

- a. This Amendment Deed commences on the date that the last party to the Deed executes the Deed.
- b. The last party to execute the deed is to insert the date at the top of this page and, within 5 business day of that date, provide a copy of the executed deed to the other party.

2.2 Amendment of a planning agreement

This Amendment Deed amends the 2013 Agreement in accordance with clause 25C(3) of the Regulation.

3. Amendment

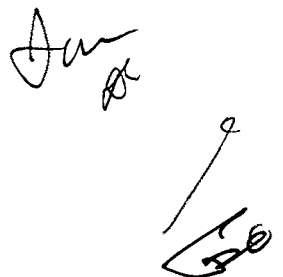
3.1 Amendments to the 2013 Agreement

The 2013 Agreement is amended as shown by the additions and deletions in the marked-up copy of the 2013 Agreement set out in Annexure A to the Amendment Deed.

4. Explanatory Note

4.1 Explanatory Note to Amendment Deed

- a. Annexure B contains the Explanatory Note relating to this Amendment Deed as required by clause 25E of the Regulation.
- b. The Explanatory Note is not to be used in construing the Agreement.

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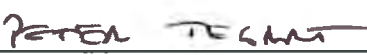
EXECUTED as a Deed.

Executed as a Deed by **QPRC** in accordance
with Council Resolution PLA005/21 of 10
March 2021 by:



Signature of []

Chief Executive Officer



Name of [] (print)



Signature of []

Mayor of Queanbeyan-Palerang Regional
Council




Name of [] (print)

SIGNED, SEALED AND DELIVERED by **BIG
ISLAND MINING PTY LTD ABN 12 112 787**
470 pursuant to S.127 of the Corporations
Act by:



Signature of Director



Name of Director (print)



Signature of ~~Director~~/Secretary



Name of ~~Director~~/Secretary (print)

Annexure A – Conformed version of the 2013 Agreement

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PLANNING AGREEMENT

This Planning Agreement (**Agreement**) is made on 15th February 2013 between:

BIG ISLAND MINING PTY LTD (ABN 12 112 787 470) of Level ~~1710, 350 Collins~~ 144 Edward Street, Brisbane QLD 400056 Pitt Street Melbourne Vic 3000 (Big Island)

and

QUEANBEYAN-PALERANG REGIONAL COUNCIL of ~~40 Majara Street, Bungendore~~ 256 Crawford St, Queanbeyan, NSW 2624 (Palerang 2620 (QPRC)).

BACKGROUND

- A. Big Island received Development Consent for Proposal 10-0054 Dargues Reef Gold Project by *Land and Environment Court of New South Wales* on 8 February 2012 to construct and operate the Dargues ~~Reef~~ Gold Mine and associated infrastructure, located at 920 Majors Creek Road, Majors Creek NSW 2622 (the Development).
- B. Big Island has agreed to make a Development Contribution for the upgrading by PalerangQPRC of sections of ~~the Braidwood to~~ Majors Creek Road which lies, as at the date of this Agreement, within the Palerang Council QPRC Local Government Area, in accordance with the terms of this Agreement. These have been made.
- C. Big Island has agreed to make an annual contribution for the ongoing pavement upkeep along that part of Majors Creek Road which lies between the Development and Araluen Road.
- D. Big Island has agreed to make a contribution for the benefit of the Braidwood Communitycommunity (Section 947.11 Contribution). PalerangQPRC has identified a contribution towards the upgrading of facilities at the Braidwood Recreation Ground as satisfying this condition (being the amount referred to in Clause 55(a), Item C).

OPERATIVE PROVISIONS

1. Planning Agreement under the Act

- (a) The parties agree that this is a planning agreement governed by Subdivision 2 of Division 67.1 of Part 47 of the Act.
- (b) Nothing in this Agreement shall be construed as creating a construction contract between the parties within the meaning of s4 of the *Building and Construction Industry Security of Payment Act 1999*. In particular, and for the avoidance of doubt, the parties acknowledge that any construction work carried out by PalerangQPRC, or a third party, under this Agreement is done on behalf of PalerangQPRC.

2. Application of this Agreement

The ~~proposed development~~ Development is located in the Southern Highlands of NSW approximately 60 kilometres south-east of Canberra and 13 kilometres south of Braidwood. The subject of this Agreement is ~~the public road network~~ Majors Creek Road between ~~the Kings Highway at Braidwood~~ Araluen Road and the ~~development site~~ Development at Majors Creek,

located within the Palerang QPRC local government area, ~~more specifically identified in Exhibit 1 to this Agreement,~~ and the Community Benefit Contribution.

3. Definitions

In this Agreement the following definitions apply:

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

Affiliate means any named person or any other person that controls, is under the control of or is under common control with, the named person. As used in this definition, the terms "controls," "under control of" or "under common control with" means the ownership, directly or indirectly, of more than fifty percent of the voting securities of a person or the power to direct the management or policies of a person, whether by operation of law, by contract or otherwise.

Approval means any approvals, consents, certificates, permits, endorsements, licences, conditions or requirements issued by or on behalf of any Authority which are required by Law for the commencement, carrying out or use of the Work.

Consent Authority means the Minister administering the Act.

CPI means the All Groups Consumer Price Index (Canberra) issued by the Australian Statistician; Bureau of Statistics.

CPI Indexed for an amount, means the amount as adjusted in line with any adjustment in the CPI.

Development means the Dargues Reef Gold Project proposed by Big Island in its major projects application number 10-0054 and any modifications.

Development Consent means consent granted under Part 3A of the Act to the Development.

Development Consent Date means ~~8th~~ 8 February 2012.

Development Contribution means the amount set out in Clause 5(a), Item A.

Development Entity means Big Island or an Affiliate of Big Island, that will own the Development.

~~**Financial Close** means the date on which the Financing Agreements are executed by the Financing Entity and the initial release of funds therefrom are made available to the Development Entity.~~

~~**Financing Agreements** means all agreements and documents for the financing of the Development;~~

~~**Financing Entity** means collectively, the lender or syndicate of lenders providing the financing for the Development;~~

Force Majeure Event means an event which is beyond the reasonable control of the party affected and which the party has not caused or materially contributed to by its negligent acts or omissions including fire, lightning, explosion, flood, earthquake, riots, natural disaster, sabotage, act of a public enemy, act of God, war (declared or undeclared), blockade, revolution, action or inaction by a Government Authority, radioactive contamination, toxic or dangerous chemical contamination, or force of nature.

It excludes actions arising from Industrial Relations directed solely at the Work.

A party prevented from performing an obligation by an Force Majeure Event must:

- (a) notify the other party within five business days by phone and seven business days in writing of the occurrence of that event and of the effect of that event on the party's ability to perform its obligations under the Agreement; and
- (b) provide such information as reasonably requested by the other party as to its progress in overcoming the effects of the Force Majeure Event.

GST has the same meaning as in the GST Law¹².

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 GST¹².

Party means a party to this Agreement, including their successors and assigns¹².

Regulation means the *Environmental Planning and Assessment Regulation 2000*¹².

Section 947.11 Contribution means a community benefit payment towards public amenities the upgrade of Braidwood Recreation Ground pursuant to section 947.11 of the Act, as set out in Clause 5(a), Item C.

Majors Creek Road means that part of Majors Creek Road which lies, ~~as at between the date of this Agreement, within the Palerang Council Local Government Area, Development and is set out in Exhibit I;~~ the intersection with Araluen Road.

Mine Commencement Date means the date development of the mine physically ~~starts (at this stage 11 February 2013).~~ recommended, being 18 May 2018.

Work means the upgrade of specified sections of the local public road network between Braidwood and Majors Creek to address road safety issues and pavement damage that will arise from transport of resources to the mine and the haulage operations of concentrate from the mine.

Work Commencement Date means the date PalerangQPRC will commence any of the Work as specified in 5A Clause 5(a) Item A (i)---.

4. Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this Agreement is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.

- (e) A reference in this Agreement to any law, legislation or legislative provision is a reference to that law, legislation or legislative provision in its form as at the date of this Agreement.
- (f) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (k) References to the word 'include' or 'including' are to be construed without limitation.
- (l) A reference to this Agreement includes the agreement recorded in this Agreement.
- (m) A reference to a party to this Agreement includes a reference to the servants, agents and contractors of the party, and the party's successors and assigns.
- (n) Any schedules and attachments form part of this Agreement.

5. Obligations

The Parties' obligations under this Agreement are as follows:

- (a) Subject to Clause 77 and this Clause 55, Big Island has made, or will make, the following payments to QPRC:

Ref	Payment type	Amount	Timing of Payment
A	Development Contribution:		
(i)	For road upgrading works along the haulage route to/from the mine, including widening of seal over crests and around curves and line marking of Majors Creek Road.	\$559,000 Pavement widening	<u>Paid</u> invoiced on monthly basis in 6 equal instalments from Work Commencement Date
		\$15,000 Line marking	<u>Payment on completion of work</u> Paid
(ii)	For pavement upkeep during mine construction	\$78,000	<u>Paid</u> Paid within 30 days of Mine Commencement date
	Subtotal	\$652,000	

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Ref	Payment type	Amount	Timing of Payment
B	Annual payment towards ongoing pavement upkeep along <u>a haulage route and towards improvements to intersections if possible within that part of Majors Creek Road which lies between the limit of funds the Development and Araluen Road.</u>	\$78,000 92,820	First payment due on the first anniversary of initial payment <u>Initial payment was made on 30 June 2020. Subsequent payments to be made annually on 1 July thereafter until completion of concentrate shipment from the Development.</u>
C	Section 947.11 Contribution: Community benefit payment towards upgrade of Braidwood Recreation Ground.	\$375,000 446,250	Within 4 weeks of tax invoice to be issued by Council after 31 January 2014 <u>Within 28 days of a tax invoice being issued by QPRC after the execution of the Deed of Amendment by both parties.</u>
D	Payment for disposal of putrescible waste at Braidwood landfill (Strictly no waste to be taken to other Council landfills)	\$120 per tonne New rate to be determined following closure of landfill and replacement with waste transfer station.	invoiced per use, monthly or other period. No longer applicable from 1 July 2020 as facility unable to take waste from the Development

- (b) All payments are subject to receipt of a tax invoice from Palerang QPRC pursuant to the GST law.
- (c) At or before the date for payment specified in this clause, QPRC will issue a tax invoice to Big Island for payment of the contribution amount owing.
- (d) Big Island must pay any invoice issued by QPRC within the later of 14 days of receipt of the tax invoice or the date for payment specified in this clause.
- (e) A contribution is not taken to have been made until QPRC has received the full cleared funds in its account.
- ~~(e)(f)~~ The payment amounts indicated in the table are GST exclusive figures.
- ~~(d)(g)~~ Big Island agrees that the payments in ~~Clause 55(a) Item A, 55(a) Item B and 55(a) Item C~~ are to be CPI Indexed with effect on and from ~~March 2010~~ September 2019 until such time as they are paid. The CPI Indexed amount as at the payment date will be the amount due and payable, ~~noting that the CPI index (Canberra) at March 2010 was 171.7.~~

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~~Palerang~~

~~(e)~~(h) QPRC will:

- (i) not commence the Work prior to the date the conditions precedent in clause ~~77~~ have been satisfied;
- (ii) carry out the Work, in a proper and workmanlike manner;
- (iii) carry out the Work to practical completion within six (6) months of Work Commencement Date;
- (iv) provide tax invoices to Big Island as required and pursuant to GST law; and
- (v) provide, if requested by Big Island, records of financial transactions in respect of the works completed, with such detail as may reasonably be required to satisfy Big Island as to their veracity; and.

6. Application of ~~s93s7.4~~ and ~~s94s7.11~~ of the Act to the Development

~~(a)~~ This Agreement does not exclude the application of section 7.24 of the Act to the Development.

~~(a)(b)~~ Any benefits provided by Big Island under this agreement must not ~~are to~~ be taken into consideration for the purpose of section ~~94(6)7.11~~ of the Act.

~~(b)(c)~~ This Agreement ~~excludes~~ does not exclude:

1. ~~the application of section 94 of the Act to the extent that it relates to the provision, upgrading or maintenance of public roads; and~~

~~(i)~~ the application of section ~~94~~7.11 of the Act; and

~~(i)(ii)~~ the application of section 7.12 of the Act to the Development.

7. Conditions Precedent

(a) The parties' obligations under this Agreement are conditional upon the following conditions precedent being fulfilled:

- (i) Development physically commencing. Meaning the actual commencement of the development of the Mine, including commencement of Access Rd. (Mine Commencement Date).

8. Co-operation

The parties agree to exercise their respective rights under this Agreement only for a bona fide reason and will not do, or omit to do, any act capriciously.

9. Agreement of the parties

Where the provisions of this Agreement require the further agreement of the parties in relation to a particular matter, each party will nominate representatives (**Party Representative**) to negotiate in good faith to reach agreement.

10. Dispute Resolution

- (a) If any dispute arises between the parties in relation to the subject matter of this Agreement, the party claiming the dispute must give the other party notice setting out the details of the dispute and the dispute will in the first instance be referred for resolution to the Party Representatives or other representatives of the parties nominated for this purpose. Failing resolution of a dispute within a reasonable time, having regard to its nature and materiality (but in any event within one month), it will be referred to the senior executive of each of the parties with authority to resolve that dispute on its behalf. The senior executives will endeavor to resolve the dispute as soon as reasonably practicable after it is referred to them (but in any event within one month).
- (b) If the parties cannot resolve the dispute within that period, they must refer the dispute to a mediator if one of them requests.
- (c) If the parties to the dispute cannot agree on a mediator within seven days after a request under clause (b), the chairman of LEADR Resolution Institute (currently of Level 9, 2/13-15-17 Young Bridge St, Sydney NSW 2000) or the chairman's nominee will appoint a mediator.
- (d) The role of a mediator is to assist in negotiating a resolution of the dispute. A mediator may not make a binding decision on a party to the dispute except if the party agrees in writing.
- (e) Any information or documents disclosed by a party under this clause 10:
 - (i) must be kept confidential; and
 - (ii) may only be used to attempt to resolve the dispute.
- (f) Each party to a dispute must pay its own costs of complying with this clause 10. The parties to the dispute must equally pay the costs of any mediator.
- (g) A party to a dispute may terminate the dispute resolution process by giving notice to each other after it has complied with clauses 10(b) to 10(d). Clauses 10(e) and 10(f) survive termination of the dispute resolution process.
- (h) If a party to a dispute breaches clauses 10(b) to 10(g), the other parties to the dispute do not have to comply with those clauses in relation to the dispute.

11. Enforcement

- (a) Big Island agrees to provide a bank guarantee for the benefit of QPRC in the amount of \$96,000 (Security) to secure the payment by Big Island of the contributions set out in clause 5(a).
- (b) Big Island is to provide the Security to QPRC within 28 days of the execution of the Deed of Amendment by both parties 1 March 2024.
- (c) QPRC may call upon and apply the Security to remedy a failure by Big Island to pay any contribution amount as required by clause 5(a).

- (d) If QPRC calls upon the Security or any portion of it, QPRC may, by written notice to Big Island, require Big Island to provide a further or replacement Security, which, in total, does not exceed the amount that Big Island is required to provide pursuant to clause 11(a).
- (e) QPRC must release and return the Security, or any unused part of it, to Big Island within 10 business days of Big Island making its final payment pursuant to clause 5(a).
- (f) If, as the result of Big Island defaulting in its obligations under this ~~Agreement~~ **Deed**, the Council incurs costs or expenses which exceed the amount of the Security then the Council may:
 - (i) issue an invoice to Big Island for payment of those additional costs; and
 - (ii) recover those costs as a debt due to it in a court of competent jurisdiction.

11.12. Commencing the Work

- (a) Big Island will notify ~~Palerang~~, QPRC in writing of the **Mine Commencement date** ~~Date~~.

Palerang will complete the work in 5A (i) within 10 months after Mine Commencement date
Palerang
- (b) QPRC will commence the road maintenance referred to in 5A (ii) clause 5(a) Item B after payment is received. The work in 5A (ii) clause 5(a) Item B is ongoing over a 12 month period.

- 1. ~~Palerang must notify Big Island 21 days prior to the Work Commencement Date of the Work Commencement Date for works in 5A (i). Such notice must clearly state:~~

- 1. ~~the Work Commencement Date (subject always to Clause 7);~~
- 2. ~~the name of the party undertaking the Work; and~~
- 3. ~~the time frame for completion.~~

- (c) If for any reason the Work Commencement Date is delayed then ~~Palerang~~ QPRC must notify Big Island accordingly.

12. Default and Termination

- 1. ~~If a party defaults in the performance of any of its material obligations under the Agreement and fails to remedy the default within thirty days' notice in writing from the other party (Non-Defaulting Party), the Non-Defaulting Party may:~~
 - 1. ~~by notice, terminate the Agreement; or~~
 - 2. ~~suspend payment for the Work.~~
- 1. ~~At any time Big Island may, at its sole discretion, pay to Palerang the Development Contribution adjusted to reflect any amounts already paid and any changes in the~~

~~Index between the Development Consent Date and the date of payment, in full and final satisfaction of all Big Island's obligations under this Agreement.~~

~~2. Termination or expiration of the Agreement is without prejudice to the accrued rights and obligations of the parties.~~

13. Notices

(a) 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 and sent in one of the following ways:

- (i) Delivered or posted to that Party at its address set out below.
- (ii) Faxed to that Party at its fax number set out below.
- (iii) Emailed to that Party at its email address set out below.

Council

Attention: The ~~General Manager~~ Chief Executive Officer

Address: 10 Majara Street, Bungendore NSW 2621

Fax Number: (02) ~~6238 1290~~ 6285 6223

Email: councilrecords@palerang@qprc.nsw.gov.au

Developer

Attention: ~~General Manager Greg Cozens~~ Project Manager Paul Rouse
~~Director~~

Address: Big Island Mining Pty Ltd Dargues Gold Mine

~~C/o Unity Big Island Mining Pty Ltd~~

~~Level~~ 17, 144 Edward Street, Brisbane QLD 4000

~~Fax Number: (03) 8622 2399~~

~~Email: greg@cortonaresources.com.au~~

~~Email: office@aureliametals.com.au~~

DGM.Info@divminerals.com.au

(b) If a Party gives the other Party 3 business ~~days~~ days' notice of a change of its address email, or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

(c) 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, 2 business days after it is posted.
- (iii) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- (d) If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that 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.

14. Assignment

- (a) Except as provided below, the negotiated agreement shall not be assignable by Big Island or PalerangQPRC or their respective successors or permitted assigns without the prior written consent of the other party thereto, which consent shall not be unreasonably withheld.
- ~~(b)~~ Notwithstanding clause ~~14.114(a)~~, Big Island may assign this Agreement without the consent of PalerangQPRC to a:
 - ~~(e)~~ Development Entity
 - ~~Financing Entity (including assigning via a Development Entity) as security for the Financing Entity under the Financing Agreements or an assignment by the Financing Entity in enforcement of its security, and~~ PalerangQPRC shall execute any assignment or novation agreement reasonably required by Big Island to give effect to the assignment or novation, provided that PalerangQPRC shall have the
 - ~~(d)(b)~~ same rights and obligations in relation to the Development Entity ~~or Financing Entity~~ which it had in relation to Big Island.

15. Costs

Each party is to bear its own costs of preparing, executing, stamping and registering the Agreement.

16. Entire Agreement

This Agreement contains everything to which the Parties have agreed in relation to the matters dealt with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by law.

17. Governing law and jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those courts on any basis.

18. No fetter

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

19. Representations and warranties

The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

20. Severability

If a clause or part of a clause 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. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

21. Modification

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

22. Waiver

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 breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. 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.

23. Liability and Indemnity

Big Island shall not be liable to PalerangQPRC, or to any other person (whether in contract, tort, under statute, at law, in equity or otherwise) for any:

(a) loss of profits;

(b) liability to third parties; or

~~(b)(c)~~ without limitation to paragraphs (a) and (b), any indirect, special, incidental or consequential loss or damage,

suffered or incurred in connection with the Work by any person.

24. Force Majeure

Neither party is liable for delay or failure to perform its obligations pursuant to this Agreement, if such delay and failure is caused by a Force Majeure Event, provided the party has used its reasonable endeavors to overcome or mitigate the effects of the Force Majeure Event. If a delay or failure to perform its obligations is caused by or is anticipated due to a Force Majeure Event, the performance of that party's obligations will be suspended. If performance is delayed



by a Force Majeure Event for more than 3 months and the parties have not agreed upon a revised basis for continuing performance at the end of the delay, then either party may terminate this Agreement by not less than 30 days written notice to the other party.

25. Approvals and Consent

- (a) Nothing in this Agreement shall be construed to give ~~Palerang~~QPRC the power to compel Big Island to carry out the Development.
- (b) The Parties acknowledge that:
 - (i) except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party;
 - (ii) a Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions; and
 - (iii) this Agreement does not impose any obligation on a Consent Authority to:
 - (A) grant an approval under the Act; or
 - (B) exercise any function under the Act in relation to a change in an environmental planning instrument.

26. GST Law

If any party reasonably decides that it is liable to pay GST on a supply made to the other party under this Agreement and the supply was not priced to include GST, then the Recipient of the supply must pay an additional amount equal to the GST on that supply.

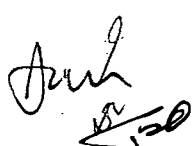
SIGNED AND DELIVERED by **PALERANG COUNCIL** by:

Signature of [_____]

Signature of [_____]

Name of [_____] (print)

Name of [_____] (print)



**SIGNED AND DELIVERED by BIG ISLAND
MINING PTY LTD ABN 12 112 787 470
pursuant to S.127 of the Corporations Act
by:**

Signature of Director

Signature of Director/Secretary

Name of Director (print)

Name of Director/Secretary (print)

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Exhibit:

1. Area where Works are required.
2. Road Standards

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EXHIBIT I

Jan 9
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PALERANG COUNCIL

ROAD ACCESS REQUIREMENTS

FOR

**RURAL, RURAL RESIDENTIAL AND
ENVIRONMENTAL PROTECTION
ZONES**

ADOPTED BY COUNCIL – 27 JULY 2004

REQUIREMENTS EFFECTIVE FROM – 17 AUGUST 2004





Jan 1/20
BC

TABLE 2 – RURAL RESIDENTIAL RURAL AND ENVIRONMENTAL PROTECTION ZONE ROAD STANDARD SCHEDULE

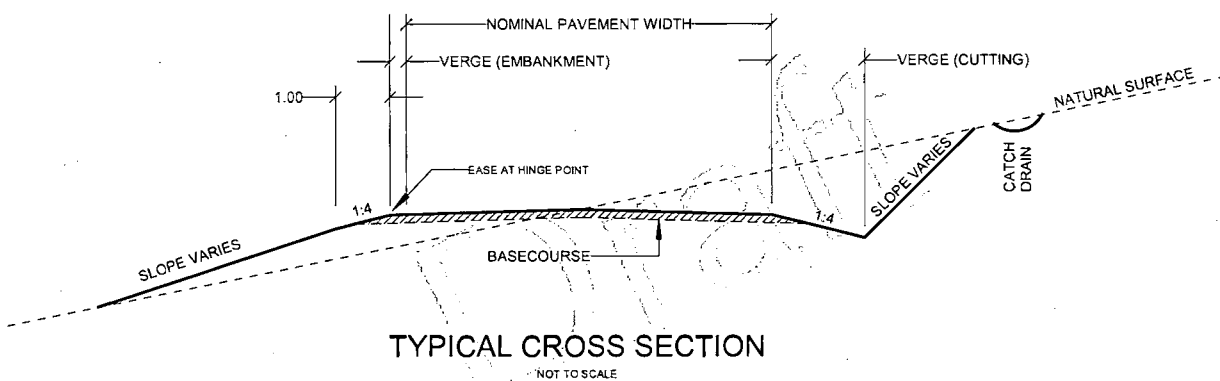
Category/Purpose	ROAD TYPE									
	1	2	3	4	5	6	7	8	9	10
	Single Lot Access (A)	Residential Access	Residential Access	Local Access	Cul-de-Sac (L)	Cul-de-Sac Local Access (L)	Cul-de-Sac Local Access (L)	Local Access	Collector	Arterial
Nearest Road Type under Previous Standards Y (Yarrowluma) T (Tallaganda)	1a (+1b)(Y) 7 (T)	2 (Y) 6 (T) 3 (TDCP)	3 (Y) 5 (TS94) 3 (TDCP)	8/9 (Y) 4 & 3 (TS94) 2 (TDCP)	4A1 (Y)	4A2 (Y) 1 (TDCP)	4B (Y)	5 & 10 (Y) 3 & 2 (T)	6 (Y) 2 (T)	7 (Y)
Potential Number of Lots Served	1	2-3	4-5	6-17	1-8	9-17	18-39	40-99	100-300	>300
VPD (aadt)/Lot	7	7	7	7	7	7	7	7	7	7
Potential Traffic Volumes (vpd aadt)		8-21	22-35	36-119	1-56	57-119	120-273	274-693	700-2100	>2100
Applicable Zoning Rural Residential (RR) Rural and Other non RR (R)	RR & R	RR & R	RR & R	R	RR	RR	RR & R	RR & R	RR & R	RR & R
Pavement Width (m)	3.0 (with passing bays) (M)	4.7	5.6	7.0	6.5	6.5	7.0	7.5	9.0	10.0
Minimum Verge Widths (C)										
a. Embankments	-	-	-	0.3	0.3	0.3	0.3	0.5	0.5	1.0
b. Cuttings	-	-	-	1.25	1.25	1.25	1.25	1.5	2.0	2.0
Minimum Seal Width Requirements (D)										
a. Lanes (m)	-	-	-	-	1 @ 4	2 @ 2.8	2 @ 3.0	2 @ 3.0	2 @ 3.25	2 @ 3.5
b. Shoulders (m)	-	-	-	-	-	-	-	2 @ 0.5	2 @ 0.5	2 @ 0.5
c. Total (m)	-	-	-	-	4.0 (B)	5.6	6.0	7.0	7.5	8.0
Nominal Road Reserve Width (m) (E) (F)	10	15	15	20	20	20	20	25	30	30
Design of Alignment										
a. General minimum design speed (kph) (G)		40	40	60 90	60 90	60 90	60 90	70 150	80 220	80 240
b. Desirable minimum horizontal curve radius (m) (H)										
Maximum Grade % (I)										
a. If unsealed surface using erosion resistant gravels	15	15	15	12	-	-	-	-	-	-
c. If unsealed surface using sandy decomposed granite	7	7	7	7	-	-	-	-	-	-
b. If sealed surface	20	20	20	18	16	14	12	12	12	12
Drainage Design Frequency										
(i)	-	1	2	20	20	20	20	50	100	100
(ii)	-	1	2	10	10	10	10	25	50	50
(iii)	-	1	2	5	5	5	5	10	20	20
(iv)	-	1	2	2	2	2	2	5	10	10
1 in Years (J)										
Minimum Basecourse Thickness (mm) (K)	75	100	100	150	150	150	150	150	200	200
Design Traffic Loadings (ESAs)										

NOTES:

- A Design speed, horizontal and vertical geometry not specified for Type 1 road. These roads are to be aligned to minimise impact on, or interference/disturbance of native vegetation (trees, grasses, plants etc) water courses, rock outcrops, archaeological and heritage sites. Vertical geometry is to follow the natural surface and avoid cuts/fills deeper/higher than 0.5 metre as far as practicable. Longitudinal table drains where needed are to be as small as practicable and are to be turned out to level spreaders at 20 metre (max) intervals or terminated at cross drainage culverts/causeways at 50 metre (max) intervals.
- B A 4m bitumen seal will only be accepted if alignment allows 120m or greater sight distance along the pavement from car to car to allow motorists approaching each other sufficient reaction time to safely avoid conflicts by sharing the one lane seal; otherwise a minimum seal of 5.6m wide will be required (e.g. over crests and around tight curves).
- C Verge widths adjacent to carriageway as defined in Typical Cross Section illustrated below. Where not specified in table keep to minimum practicable.
- D Bitumen sealing of Type 1, 2, 3 and 4 roads will be required to address dust impact under the following circumstances:
- a. Where new roads are constructed:
- (i) on a private road where the centreline of the road is within 50m of the near edge of a building envelope or the walls of an existing or proposed dwelling.
 - (ii) on a public road where the centreline of the road is within 100m of the near edge of a building envelope or an existing or proposed dwelling.
 - (iii) where bitumen sealing is required at more than one location under i or ii above, the bitumen sealing shall be linked between each site if the distance between the edge of sealing at each site is less than 200m.
- b. Where use is made of existing roads:
- (i) where any single or staged subdivision or development results in a significant increase in traffic the applicant will be required to construct to a bitumen sealed standard any existing gravel road where any existing residence or building envelope lies within 100m of the centreline of the road(s) over which access is being gained to serve the new subdivision development. A significant increase in traffic shall mean:

a)	for Type 2 Roads	≥ 1 extra lot
b)	for Type 3 Roads	≥ 2 extra lots
c)	for Type 4 Roads (not already sealed)	≥ 4 extra lots
d)	for Type 5, 6,7,8,9,10 Roads	≥ 25% increase in existing traffic
- E A reduction in the road reserve width may be permitted in flatter terrain if it can be demonstrated that the road formation, cut and fill batters, drainage, lateral clearances at top and bottom of batters of at least 2.5m and necessary horse trails and services can be adequately incorporated within the road boundaries.
- F Stock proof fencing shall be provided along road reserves in accordance with Cl 12 of YSC Rural & Rural Residential DCP (June 2002) and as amended.
- G Lower or higher design speed may be specified in special circumstances of topographical and/or environmental conservation constraints/circumstances. Road alignments shall be designed so as to ensure a consistent or gradually changing speed environment so that each curve is not incongruous with the adjoining curves thereby 'trapping' unwary drivers. In this regard where terrain or environment dictate a reduction in speed environment, geometric elements connecting the two speed environments should be designed with appropriate design speeds to provide a speed transition between elements of not more than 15-20 km/h. All curves and crests which have a design speed less than the posted speed limit shall be provided with appropriate speed warning signs on each approach.
- H Larger minimum curve radii may be necessary in situations where drivers' lines of sight for stopping sight distance and/or safe sight distances to intersections and property entrances are outside the vegetation clearing zone as detailed in Council's roadside vegetation management policy.

- I Permanent erosion protection, sediment control and revegetation is to be designed and constructed to protect disturbed surfaces along and adjacent to roadsides, table drains and drainage structures in accordance with sound drainage design and environmental conservation principles and practices. For gravel roads, a small increase in maximum grade may be accepted if road over steeper section is finished with a non-erodible or bitumen sealed pavement.
- J Adequate provision shall be made for overtopping in accordance with AUSTROADS 'Bridge Design Code'.
- (i) Bridge Structure with effective waterway area $> 30\text{m}^2$)
 - (ii) Major Culvert Structure with effective waterway area $> 3 < 30\text{m}^2$)
 - (iii) Minor Culvert Structure with effective waterway area $< 3\text{m}^2$))
 - (iv) Catch Drains
- K Pavement design, materials and construction to be in accordance with AUSSPEC #1, which refers to specific publications.
- L Cul-de-sac Roads shall be provided with end turning circles in accordance with Fig 4A. A 2.5m clearance from top/bottom of cut/fill batters shall be provided.
- M The provision of the driveway is to comply with the requirements for vehicle passing and clear zones adjacent to and above the road, as set out in Planning NSW document, Planning for Bushfire Protection, December 2001, Clause 4.3.2.



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Annexure B – Explanatory Note

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Handwritten signature and initials in the bottom right corner. The signature appears to be 'An' followed by a stylized flourish, and the initials 'v' and 'J' are written to the right.

Explanatory Note

Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)
(Clause 25E)

Draft Amendment Deed amending Planning Agreement

On 15 February 2013, the Parties entered into a Planning Agreement (**2013 Agreement**) under s 93F (now s7.4) of the *Environmental Planning and Assessment Act 1979 (Act)*. The Amendment Deed proposes to amend the 2013 Agreement pursuant to clause 25C(3) of the EP&A Regulation (**Amended Planning Agreement**).

Parties

Queanbeyan- Palerang Regional Council of 256 Crawford Street, NSW 2620 (**QPRC**)

BIG ISLAND MINING PTY LTD ABN 12 112 787 470 of 144 Edward Street, Brisbane QLD (**Big Island**)

Description of the Land to which the Draft Amendment Deed and the Amended Planning Agreement apply

The land comprising the Development is shown in the map at Annexure A to this Explanatory Note titled "Figure 3".

The Draft Amendment Deed and the Amended Planning Agreement also apply to that part of Majors Creek Road which lies between the Development and the intersection with Araluen Road.

The land also includes the Braidwood Recreation Ground located at 1 Kedar Street BRAIDWOOD, NSW.

Description of Proposed Development

The Development means the Dargues Gold Project proposed by BIM in its major projects application number 10_0054, which was approved on 8 February 2012, and any modifications.

Summary of Objectives, Nature and Effect of the Draft Amendment Deed

Objectives of Draft Amendment Deed

The objectives, nature and effect of the Draft Amendment Deed is to update the 2013 Agreement by clarifying the contributions that have been paid by the Developer to Council, increasing and clarifying the contributions payable by the Developer in connection with the Development, and providing for the provision of a bank guarantee by the Developer to Council to further secure the Developer's payment of contributions under the Amended Planning Agreement.

Nature of the Draft Amendment Deed

The Draft Amendment Deed is a written agreement between the Parties pursuant to clause 25C(3) of the EP&A Regulation amending the 2013 Agreement, which is a planning agreement under s7.4 of the Act.

The Draft Amendment Deed:

- clarifies the contributions that have already been paid by the Developer to Council;
- amends the annual payment by the Developer towards road infrastructure works by increasing the payment amount and clarifying that the payment is to be put towards ongoing pavement upkeep along a haulage route being that part of Majors Creek Road which lies between the Development and Araluen Road;
- clarifies that s7.11, s7.12 and s7.24 are not excluded from applying to the Development and the contributions payable by the Developer are to be taken into consideration for the purpose of s7.11;
- increases the s7.11 Contribution: Community benefit payment towards upgrade of Braidwood Recreation Ground;
- removes the obligations relating to the disposal of waste at the Council's Braidwood facility, which is no longer able to take putrescible waste;
- requires the Developer to provide a bank guarantee for the benefit of Council to secure the Developer's payment of contributions under the Amended Planning Agreement; and
- removes the default and termination provisions.

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Assessment of the Merits of the Draft Amendment Deed

The Draft Amendment Deed provides a positive impact on the public by:

- (a) the provision of increased contributions by the Developer for:
 - the maintenance of part of a haulage route, and
 - the upgrade of the Braidwood Recreation Ground; and
- (b) further securing the Developer's obligations under the Amended Planning Agreement by way of a bank guarantee to Council.

How the Draft Amendment Deed Promotes the Public Interest and objects of the Act

The Draft Amendment Deed promotes the public interest and elements of the objects of the Act including those identified in Section 1.3 (c) and 1.3(g) of the Act which seek to promote the orderly and economic use and development of land as well as to promote good design and amenity of the built environment. The Draft Amendment Deed will provide increased contributions towards the maintenance of part of Majors Creek Road which will assist the continued public use of the road as well as an increased contribution towards Braidwood Recreation Ground which will support and service the existing and future population of Braidwood.

How the Draft Amendment Deed promotes the guiding principles for Councils in section 8A of the Local Government Act 1993

By providing a mechanism by which the Council will be provided with monetary contributions for the construction and maintenance of local infrastructure the Draft Amendment Deed promotes the following guiding principles for Councils in section 8A of the *Local Government Act 1993 (NSW)*:

- (i) Councils should carry out functions in a way that provides the best possible value for residents and ratepayers;
- (ii) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
- (iii) Councils should consider the long term and cumulative effects of actions on future generations.
- (i) Councils should act fairly, ethically and without bias in the interests of the local community

The impact of the Draft Amendment Deed on the public or any section of the public

The Draft Amendment Deed will benefit the public and local community as it will increase the contributions payable by the Developer to maintain the quality of that part of Majors Creek Road between the Development and Araluen Road as well as contributing towards improving the Braidwood Recreation Ground for the community benefit of Braidwood.

Whether the Draft Amendment Deed conforms with Council's capital works program

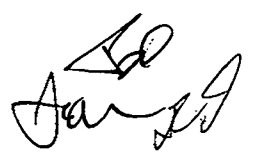
Yes. The Draft Amendment Deed conforms with Council's operational plan 2020-2021.

The planning purpose or purposes of the Amendment Deed

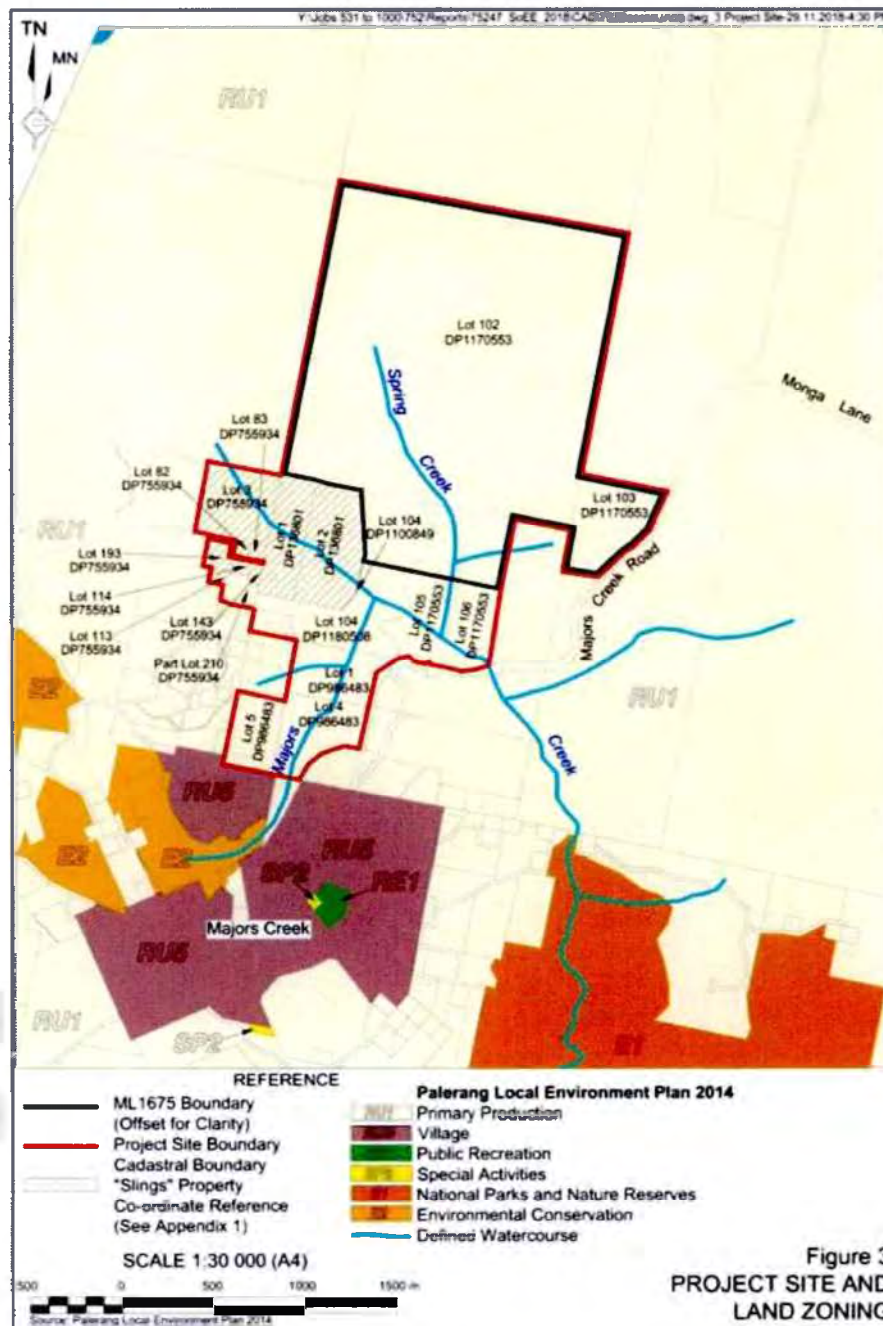
The Draft Amendment Deed will serve the planning purposes of both maintaining and enhancing local infrastructure including those arising from the impacts of the Development. It is considered that the Draft Planning Agreement provides for a reasonable means by which to achieve these planning purposes given the extent of the statutory tools that are available to Council by which it can deliver the proposed public benefits.

Requirements before issue of certain certificates

The Draft Amendment Deed does not specify requirements that must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued



Schedule A



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