

PROJECT AGREEMENT FOR THE KAMAY 250TH ANNIVERSARY PROJECT

An agreement between:

- n the Commonwealth of Australia; and
- n New South Wales.

The output of this project will be construction of a new commemorative monument and upgrade of infrastructure as part of the Kamay Botany Bay National Park, Kurnell Master Plan, to commemorate the 250th anniversary of Captain James Cook's landing at Kurnell.

Project Agreement for the Kamay 250th Anniversary Project

OVERVIEW

1. This Project Agreement (the Agreement) is created subject to the provisions of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) and should be read in conjunction with that Agreement and its Schedules, which provide information in relation to performance reporting and payment arrangements under the IGA FFR.

Purpose

2. This Agreement will support the construction of a new commemorative monument and upgrade of infrastructure as part of the Kamay Botany Bay National Park, Kurnell Master Plan, to commemorate the 250th anniversary of Captain James Cook's landing at Kurnell.

Reporting Arrangements

3. New South Wales will report bi-annually against the Project Plan during the operation of this Agreement, as set out in Part 4 – Performance and Reporting.

Financial Arrangements

4. The Commonwealth will provide an estimated total financial contribution to New South Wales of \$25 million in respect of this Agreement, as set out in Part 5 – Financial Arrangements.

PART 1 – FORMALITIES

5. This Agreement constitutes the entire agreement for this project.

Parties to this Agreement

6. This Agreement is between the Commonwealth of Australia (the Commonwealth) and New South Wales (the State).

Term of the Agreement

7. This Agreement will commence as soon as the Commonwealth and New South Wales sign it and will expire on 30 June 2022 or on completion of the project, including final performance reporting, unless terminated earlier or extended as agreed in writing by the Parties.

PART 2 – PROJECT OUTPUTS

Outputs

8. The outputs of this Agreement will be:
 - (a) completion and installation of a new commemorative monument at Botany Bay by 29 April 2020; and
 - (b) commencement of Stage 1 of the Kamay Botany Bay National Park, Kurnell Master Plan by 29 April 2020, including:
 - i. construction of a new visitor building;
 - ii. upgrade of foreshore loop;
 - iii. reconstruction of wharves;
 - iv. repurposing of Alpha House; and
 - v. upgrade of Commemoration Flat.

PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY

Role of the Commonwealth

9. The Commonwealth will be responsible for:
 - (a) monitoring and assessing achievement against the agreed Project Plan to ensure that outputs are delivered within the agreed timeframe;
 - (b) providing a financial contribution to New South Wales to support the implementation of this Agreement;
 - (c) in accordance with the *Building and Construction Industry (Improving Productivity) Act 2016*, ensuring that financial contributions to a building project or projects as defined under the Fair Work (Building Industry – Accreditation Scheme) Regulations 2016 are only made where a builder or builders accredited under the Australian Government Building and Construction WHS Accreditation Scheme is contracted; and
 - (d) ensuring that compliance with the Code for the Tendering and Performance of Building Work 2016 (Building Code 2016) is a condition of Australian Government funding.

Role of New South Wales

10. New South Wales will be responsible for:
 - (a) providing a matching financial contribution to support the implementation of this Agreement;
 - (b) developing a Project Plan including establishment of a Project Board;
 - (c) all aspects of delivering on the project outputs set out in this Agreement;
 - (d) reporting on the delivery of outputs as set out in Part 4 –Performance and Reporting;
 - (e) ensuring that only a builder or builders accredited under the Australian Government Building and Construction WHS Accreditation Scheme is contracted, and providing the necessary assurances to the Commonwealth; and

- (f) ensuring that compliance with the Building Code 2016 is made a condition of tender for and performance of building work by all contractors and subcontractors, and providing the necessary assurances to the Commonwealth.

Shared roles

11. The Commonwealth and New South Wales will be jointly responsible for agreeing a Project Plan to ensure that:
 - (a) the new commemorative monument at Botany Bay is completed and installed by 29 April 2020; and
 - (b) Stage 1 of the Kamay Botany Bay National Park, Kurnell Master Plan has commenced by 29 April 2020.
12. Project Plans typically include details on scope, project schedule, budget, project stakeholders, governance arrangements, communication plan, high level design plans and a risk management plan. New South Wales has the flexibility to determine how to meet this requirement and can make use of any existing information or document prepared for another purpose.
13. The Project Plan is expected to be a flexible document that may be varied over time to accommodate changed circumstances. Variations to the Project Plan that directly affect the timeframes for the project are subject to written agreement between senior Commonwealth and New South Wales officials.
14. The Parties will meet the requirements of Schedule E, Clause 26 of the IGA FFR, by ensuring that prior agreement is reached on the nature and content of any events, announcements, promotional material or publicity relating to activities under this Agreement, and that the roles of both Parties will be acknowledged and recognised appropriately.

PART 4 – PERFORMANCE AND REPORTING

Reporting arrangements

15. New South Wales will submit bi-annual performance reports during the operation of the Agreement. Each performance report is to contain a description of actual performance in the period to date against the agreed Project Plan. These reports are due on the 10th business day of May and November each year during the operation of this Agreement. All bi-annual reports must be certified by a New South Wales' senior official as being a true and accurate representation of the progress of the project for the relevant reporting period.
16. A Final Project Performance Report is required on completion of the project. The Final Project Performance Report will be a report that can be used for public information and dissemination purposes and will evaluate the Project from New South Wales perspective and include a description of the conduct, benefits and outcomes of the Project.

PART 5 – FINANCIAL ARRANGEMENTS

17. The Commonwealth will provide an estimated total financial contribution to New South Wales of \$25 million in respect of this Agreement, on signing of the Agreement by both Parties. All payments are GST exclusive.
18. New South Wales will provide a matching contribution of \$25 million.

19. The Commonwealth's funding contribution will not be reduced where New South Wales secures funding from other activity partners.
20. The Commonwealth's and the State's estimated financial contributions to the operation of this Agreement, including through National Partnership payments to the States paid in accordance with *Schedule D — Payment Arrangements* of the IGA FFR, are shown in Table 1.

Table 1: Estimated financial contributions

(\$ million)	2017-18	Total
Estimated total budget	50.0	50.0
Less estimated National Partnership Payments	25.0	25.0
New commemorative monument	3.0	3.0
Stage 1 of the Kamay Botany Bay National Park, Kurnell Master Plan	22.0	22.0
Balance of non-Commonwealth contributions ^(a)	25.0	25.0

^(a) Balance of non-Commonwealth contributions will be allocated over the period of projects.

21. Having regard to the agreed estimated costs of projects specified in this Agreement, New South Wales will not be required to pay a refund to the Commonwealth if the actual cost of the project is less than the agreed estimated cost of the project. Similarly, New South Wales bears all risk should the costs of a project exceed the agreed estimated costs. The Parties acknowledge that this arrangement provides the maximum incentive for New South Wales to deliver projects cost effectively and efficiently.

PART 6 – GOVERNANCE ARRANGEMENTS

Enforceability of the Agreement

22. The Parties do not intend any of the provisions of this Agreement to be legally enforceable. However, that does not lessen the Parties' commitment to this Agreement.

Variation of the Agreement

23. The Agreement may be amended at any time by agreement in writing by both the Parties.
24. Either Party to the Agreement may terminate their participation in the Agreement at any time by notifying the other Party in writing.

Delegations

25. The Commonwealth Minister may delegate the assessment of performance against milestones and the authorisation of related project payments to senior Commonwealth officials, having regard to the financial and policy risks associated with those payments.

Dispute resolution

26. Either Party may give notice to other Party of a dispute under this Agreement.
27. Officials of both Parties will attempt to resolve any dispute in the first instance.
28. If a dispute cannot be resolved by officials, it may be escalated to the relevant Ministers.

The Parties have confirmed their commitment to this agreement as follows:

*Signed for and on behalf of the Commonwealth
of Australia by*



The Honourable Josh Frydenberg MP
Minister for the Environment and Energy

30 May 2018

*Signed for and on behalf of the
State of New South Wales by*



The Honourable Gabrielle Upton MP
Minister for Environment and Heritage

24 May 2018