

PROJECT AGREEMENT FOR WORKS AT THE PORT OF BUNDABERG

An agreement between:

- the Commonwealth of Australia; and
- the State of Queensland.

The outputs of this Agreement will be the construction and commissioning of a multi-use conveyor (subject to the consideration of a Business Case by the parties) at the Port of Bundaberg, including planning and approval processes, construction, and commissioning, and the delivery of a pre-feasibility study into an outer harbour at the Port of Bundaberg.

Project Agreement for works at the Port of Bundaberg

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 and commissioning of a multi-use conveyor at the Port of Bundaberg (subject to consideration by the parties, in accordance with Clause 14, of a Business Case, other considerations and required approvals) and the delivery of a pre-feasibility study for an outer harbour at the Port. These works will facilitate significant social and economic benefits to the Bundaberg region by enabling the Port of Bundaberg to be a competitive port for the loading of goods produced and consumed by the region and plan for future expansion.

Reporting Arrangements

3. The State of Queensland will report against the agreed milestones during the operation of this Agreement, as set out in Part 4 – Project Milestones, Reporting and Payments.

Financial Arrangements

4. The Commonwealth will provide an estimated total financial contribution to the State of Queensland of \$10.75 million (exclusive of GST) in respect of this Agreement, as set out in Part 5 – Financial Arrangements.

PART 1 – FORMALITIES

5. This Agreement constitutes the entire agreement. However, it should be read in conjunction with the Hinkler Regional Deal Implementation Plan.
6. The Queensland Government is not a party to the Hinkler Regional Deal. However, the Queensland Government will help facilitate the projects outlined in this agreement and maintain its existing and budgeted commitments to projects related to the Port of Bundaberg associated with the Hinkler Regional Deal.

Parties to this Agreement

7. This Agreement is between the Commonwealth of Australia (the Commonwealth) and the State of Queensland (Queensland).

Term of the Agreement

8. This Agreement will commence as soon as the Commonwealth and Queensland sign it and will expire on the latest of either 30 June 2021 or the completion of the outputs, including final performance reporting and processing of final payments against milestones, unless terminated earlier or extended as agreed in writing by the Parties.

PART 2 – PROJECT OUTPUTS

Outputs

9. The outputs of this Agreement will be to:
- (a) Construct and commission a new multi-use conveyor at the Port of Bundaberg, subject to the consideration by the parties, in accordance with Clause 14, of a Business Case, other considerations and required approvals (Schedule 1); and
 - (b) Deliver an outer harbour pre-feasibility study to explore future opportunities for the Port of Bundaberg (Schedule 2).

PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY

Role of the Commonwealth

10. The Commonwealth will be responsible for:
- (a) monitoring and assessing achievement against milestones in the delivery of projects under this Agreement to ensure that outputs are delivered within the agreed timeframe;
 - (b) providing a consequent financial contribution to Queensland to support the implementation of this Agreement;
 - (c) in accordance with the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth), ensuring that financial contributions to a building work as prescribed under the *Building and Construction Industry (Improving Productivity) (Accreditation Scheme) Rules 2019* are only made where a builder or builders accredited under the Australian Government Building and Construction Work Health and Safety Accreditation Scheme (the WHS Accreditation Scheme) is contracted;
 - (d) ensuring that compliance with the Code for the Tendering and Performance of Building Work 2016 (Building Code 2016), or as it is updated from time to time, is a condition of Australian Government funding;
 - (e) prescribing the preferred content for Queensland's representatives to regularly report on progress of the delivery of each project output against the agreed project milestones listed in Schedules 1 and 2, including seeking for reporting to be provided on a best-endeavours basis as to how:
 - (i) each project output is maximising opportunities for local businesses and employees to be involved in the delivery of the projects; and
 - (ii) each project output is ensuring that Indigenous Australians are able to realise employment and business opportunities by incorporating appropriate Indigenous employment and Indigenous supplier-use requirements that reflect the local Indigenous working age population.

- (f) preparing and releasing annual progress reports for the project outputs, including the extent to which opportunities for local and indigenous businesses, employees and suppliers are being realised, as part of the Hinkler Regional Deal annual progress report process; and
- (g) agreeing the measure for assessing Indigenous participation with Queensland.

Role of Queensland

11. Queensland will be responsible for:

- (a) all aspects of delivering the project outputs set out in this Agreement, including:
 - (i) maximising opportunities for local businesses and employees to be involved in the delivery of the projects; and
 - (ii) ensuring that Indigenous Australians realise employment and business opportunities by incorporating appropriate Indigenous employment and Indigenous supplier-use requirements that reflect the local Indigenous working age population¹, with a specific measure to be agreed with the Commonwealth for each project, unless and to the extent the Commonwealth agrees it is impractical to do so;
- (b) reporting on the delivery of outputs as set out in this Agreement at Part 4 – Project Milestones, Reporting and Payments;
- (c) providing an up-to-date and detailed project plan or equivalent in relation to Schedule 1 on request by the Commonwealth if the project proceeds to construction;
- (d) on best-endeavours basis, providing regular reporting on progress of the delivery of each project output against the project milestones listed in Schedules 1 and 2, where the information provided is considered fit-for-purpose and sufficient to appropriately meet the needs of the Commonwealth;
- (e) providing a post-completion report at the completion of each project;
- (f) ensuring that only a builder or builders accredited under the WHS Accreditation Scheme are contracted, and providing the necessary assurances to the Commonwealth; and
- (g) ensuring that compliance with the Building Code 2016, or as it is updated from time to time, 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.

12. Additionally Queensland agrees to:

- (a) no later than the commencement of construction under Schedule 1 (if it proceeds), erect signage at each public entry point to the Port of Bundaberg that acknowledges the Commonwealth's financial contribution to the projects, consistent with the *Department of Infrastructure, Transport, Cities and Regional Development Signage Guidelines*, and maintain this signage two years after the completion of the works. Signage is to include the Commonwealth logo and the words "the common-use conveyor at the Port of Bundaberg is funded by the Australian Government as part of the Hinkler Regional Deal";
- (b) acknowledge the Commonwealth in any branding or signage that is displayed by Queensland at any public event relating to projects under this agreement. Queensland further agrees to require Gladstone Ports Corporation (GPC) to acknowledge the

¹ ABS data indicates that Indigenous Australians represent 4.76% of the working-age population of the region.

Commonwealth in any branding or signage that is displayed at any public event relating to projects under this agreement.

- (c) cause Gladstone Ports Corporation to have an obligation to comply with the media policy in **Annexure A** in relation to the projects in this agreement;
- (d) provide reasonable notice (at least one month for major construction milestones, including opening events, and target at least two weeks' notice for other opportunities) to invite the relevant Commonwealth Minister to speak at any opening and/or key events associated with any projects under this agreement, where agreed in advance to be a jointly-conducted public event; and
- (e) provide an indicative schedule of potential media events and opportunities for major milestones within one month of business case approval.

Shared roles

- 13. The Parties:
 - (a) 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 in any such events, announcements, promotional material or publicity in accordance with **Annexure A**; and
 - (b) will establish oversight governance arrangements to manage the parties obligations under this agreement and ensure appropriate representation of Commonwealth and Queensland officials.
- 14. For the assessment of future milestones under Schedule 1, both parties will be jointly responsible for determining if and how the project continues, based on a consideration of the business case provided in accordance with Clause 16 and the advice of the Gladstone Ports Corporation Board. The consideration of the business case will include, but is not limited to, consideration of Queensland's underlying interests as owner of GPC and the Port of Bundaberg and as the long term planning decision-maker for the surrounding State Development Area, consideration of the overall objectives of regional development in Queensland, the Commonwealth's funding commitment to the project, the potential economic and wider social benefits of the project including the goal of growing economic development, resilience, and community and liveability within the region, and current and potential future commercial customer considerations for the ongoing operation of the port.

PART 4 – PROJECT MILESTONES, REPORTING AND PAYMENTS

- 15. Projects, milestones for these activities or projects, their relationship to the outputs, expected completion dates, relevant reporting dates and expected payments will be outlined in Schedules to this Agreement.
- 16. For the purpose of Schedule 1, the Business Case must be of sufficient detail (best practice) to reasonably enable, as a minimum, an assessment of the outputs, costs, value for money, and risks associated with the project.

Reporting arrangements

17. For the purpose of Clause 11(b), Queensland will provide performance reports in accordance with Schedules to this Agreement, during the operation of the Agreement. Each performance report is to contain as a minimum the following information for the relevant project milestone:
- (a) a description of actual performance in the period to date against the milestones;
 - (b) sufficient documentation to provide the Commonwealth with assurance that the relevant milestone has been met and to detail progress including:
 - (i) milestone progress showing the estimated completion date;
 - (ii) financial performance with procurement activities indicating Indigenous and local supplier targets; and
 - (iii) safety and environmental performance reporting.
18. At the discretion of the Commonwealth, physical site inspections may also be carried out by a Commonwealth representative to verify progress against any of the project milestones. The Commonwealth will provide Queensland and GPC with reasonable and timely advance notice for any site visit requests, and Queensland and/or GPC will be expected to ensure site access can be accommodated within a reasonable period, provided that the appropriate safety protocols can be assured for those intending to attend the inspection.

PART 5 – FINANCIAL ARRANGEMENTS

19. The Commonwealth will provide a total financial contribution to Queensland of \$10.75 million (GST exclusive) in respect of this Agreement.
20. The Commonwealth's funding contribution will not be reduced where Queensland secures funding from other activity partners provided the Commonwealth's funding contribution is used towards the outputs as agreed between the parties.
21. The Commonwealth's and Queensland'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

Project	2020-21	TOTAL
New multi-use conveyor at the Port of Bundaberg (Schedule 1)	\$10.00m	\$10.00 m
Outer harbour pre-feasibility study (Schedule 2)	\$0.75m	\$0.75m
Total	\$10.75m	\$10.75m

(Refer to Schedules for further detail regarding delivery milestones)

22. Having regard to the agreed estimated costs of the projects specified in this Agreement, Queensland will not be required to pay a refund to the Commonwealth if the actual cost of a project is less than the agreed estimated cost of the project. Similarly, Queensland bears all risk should the costs of a project exceeds the agreed estimated costs. The Parties acknowledge that

this arrangement provides the maximum incentive for Queensland to deliver the outputs cost-effectively and efficiently.

23. In relation to Schedule 1, until a decision to proceed to complete the project and its agreed estimated costs under clause 14 is jointly made by the parties:
 - a. both parties may agree to vary the estimated financial contributions committed to under clauses 19 and 21; and
 - b. clause 22 will not apply.

PART 6 – GOVERNANCE ARRANGEMENTS

Enforceability of the Agreement

24. 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

25. The Agreement may be amended at any time by joint agreement in writing by both Parties or their nominated representatives who have been given an appropriate delegation of authority.

Delegations

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

Dispute resolution

27. Either Party may give notice to other Party of a dispute under this Agreement.
28. Officials of both Parties will attempt to resolve any dispute in the first instance.
29. 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 Hon Nola Marino MP
Assistant Minister for Regional Development and
Territories

9 / 10 / 2020

*Signed for and on behalf of the
State of Queensland by*



The Hon Mark Bailey MP
Minister for Transport and Main Roads

2 / 10 / 2020

Construct and Commission a new multi-use conveyor at the Port of Bundaberg

PROJECT SCHEDULE FOR WORKS AT THE PORT OF BUNDABERG

1. This schedule has been developed consistent with Clause 15 of the Project Agreement for works at the Port of Bundaberg (the Agreement).
2. This project will see a Commonwealth commitment (of \$10 million) invested towards the construction and commissioning of a multi-use conveyor (subject to joint consideration by the parties, in accordance with Clause 14, of a final Business Case, other considerations and required approvals) at the Port of Bundaberg, including planning and approval processes, construction, and commissioning.
3. Queensland will be responsible for ensuring that the business case for this project provides relevant information in accordance with Clause 16 of the Agreement. This will include detailed cost estimates for implementation of the project.
4. If the parties agree, this project schedule will be varied to include further implementation activities and milestones. The schedule update will be completed by September 2020.
5. In accordance with Clause 15 of the Agreement, milestones for the project, their relationship to outputs, expected completion dates, relevant reporting dates and expected payments are set out in **Table 1**.

Table 1: Performance requirements, reporting and payment summary

Output	Performance milestones	Report due	Payment
New multi-use conveyor at the Port of Bundaberg	A business case, that meets the requirements of Clause 16 of the Agreement, has been submitted to the Commonwealth.	30 July 2020	Nil
	Future performance milestones and payments are to be identified, including a milestone related to ensuring that appropriate Indigenous employment and Indigenous supplier-use requirements are delivered, after which the schedule to the Project Agreement is to be updated.	30 September 2020	To be Agreed
Total Funding			\$10 million
Funding to be allocated			\$10 million

Deliver an outer harbour pre-feasibility study to explore future opportunities for the Port of Bundaberg

PROJECT SCHEDULE FOR WORKS AT THE PORT OF BUNDABERG

1. This schedule has been developed consistent with Clause 15 of the Project Agreement for works at the Port of Bundaberg (the Agreement).
2. This project will see a Commonwealth commitment (of \$0.75 million) to fund the delivery of a pre-feasibility study into an outer harbour at the Port of Bundaberg. The pre-feasibility study will be prepared consistent with best practice for pre-feasibility studies, including at minimum:
 - a. identifying potential functions for an outer harbour, including an assessment of likely market demand over various timescales and potential demand from investors and port users who are willing to underwrite the capital costs to deliver it and for future maintenance of the new facilities;
 - b. analysing high-level potential infrastructure requirements and costs, including supporting transport network corridors and connecting infrastructure including on-shore and off-shore infrastructure (noting only desktop geotechnical investigations will be completed);
 - c. identifying any dredging requirements and other design considerations to support any potential port functions (noting only desktop geotechnical investigations will be completed);
 - d. an analysis of oceanography, tides and prevailing winds on potential sites;
 - e. exploring potential linkages with other Commonwealth and Queensland Government priorities, environmental approval requirements and other legislative requirements;
 - f. analysing any impacts on the operation and viability of existing port assets;
 - g. a high-level cost benefit analysis of the potential options; and
 - h. any other matters agreed between the Parties.
3. In accordance with Clause 15 of the Agreement, milestones for the project, their relationship to outputs, expected completion dates, relevant reporting dates and expected payments are set out in **Table 1**.
4. In relation to the project, the parties agree that the ownership of the project output and supporting documentation will be held in a creative commons licence to the benefit of all parties.

Table 1: Performance requirements, reporting and payment summary

Output	Performance milestones	Report due	Payment
Project plan	Development of a project plan outlining proposed use of Commonwealth funds and detailed delivery timeframes prepared to the satisfaction and detail required by the Commonwealth	30 August 2020	\$0.30m
Outer harbour pre-feasibility study	Completion of an outer-harbour feasibility study completed to the satisfaction of the Commonwealth and provided unconditionally with any necessary supporting documentation to the Commonwealth.	30 April 2021	\$0.45m
Total Funding			\$0.75 million
Funding to be allocated			Nil