



Western Australia

Mineral Sands (Cooljarloo) Mining and Processing Agreement Amendment Act 2017

As at 05 Dec 2017

No. 14 of 2017

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Mineral Sands (Cooljarloo) Mining and Processing Agreement Amendment Act 2017

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Western Australia

Mineral Sands (Cooljarloo) Mining and Processing Agreement Amendment Act 2017

No. 14 of 2017

***An Act to amend the *Mineral Sands (Cooljarloo) Mining and
Processing Agreement Act 1988*.***

[Assented to 5 December 2017]

The Parliament of Western Australia enacts as follows:

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1. Short title

This is the *Mineral Sands (Cooljarloo) Mining and Processing Agreement Amendment Act 2017*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Act amended

This Act amends the *Mineral Sands (Cooljarloo) Mining and Processing Agreement Act 1988*.

4. Section 3 amended

- (1) In section 3 before the 1st alphabetical definition insert in numerical order:

2017 variation agreement means the agreement a copy of which is set out in Schedule 2;

- (2) In section 3 in the definition of *the Agreement*:

- (a) delete “the Schedule and” and insert:

Schedule 1 and, except in section 4(1),

- (b) delete “provisions.” and insert:

provisions and by the 2017 variation agreement.

5. Section 4 amended

After section 4(1) insert:

(1A) The 2017 variation agreement is ratified.

Note: The heading to amended section 4 is to read:

Ratification and authorisation

6. Schedule heading replaced

Delete the heading to the Schedule and insert:

**Schedule 1 — Mineral Sands (Cooljarloo) Mining
and Processing Agreement**

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7. Schedule 2 inserted

After the Schedule insert:

Schedule 2 — 2017 variation agreement

[s. 3]

2017

**THE HONOURABLE MARK McGOWAN
THE STATE OF WESTERN AUSTRALIA**

and

**TRONOX MANAGEMENT PTY LTD
ABN 59 009 343 364**

**MINERAL SANDS (COOLJARLOO) MINING AND PROCESSING
AGREEMENT 1988**

RATIFIED VARIATION AGREEMENT

[Solicitor's details]

THIS AGREEMENT is made this 26th day of September 2017

BETWEEN

THE HONOURABLE MARK McGOWAN, BA LLB MLA, Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time (hereinafter called the "**State**") of the first part,

AND

TRONOX MANAGEMENT PTY LTD ABN 59 009 343 364 of Lot 22, Mason Road, Kwinana Beach, Western Australia, (hereinafter called the "**Joint Venturers**") in which term shall be included its successors and permitted assigns) of the second part.

RECITALS:

- A.** The parties to this Agreement are now the parties to the agreement dated 8 November 1988 (the "**Principal Agreement**"), the execution of which by the State was ratified by the *Mineral Sands (Cooljarloo) Mining and Processing Agreement Act 1988*.
- B.** The parties wish to vary the provisions of the Principal Agreement on the terms and conditions set out in this Agreement.

THE PARTIES AGREE AS FOLLOWS:

1. Ratification and operation

- (1) This Agreement, other than this clause, does not come into operation except in accordance with subclause (2).
- (2) This Agreement, other than this clause, comes into operation on the day on which it is ratified by an Act of the Parliament of Western Australia ("**Operative Date**") unless, before that day, it terminates under subclauses (4) or (5).

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- (3) The State must introduce in the Parliament of Western Australia before 31 December 2017 or a later date agreed by the parties to this Agreement a Bill to ratify this Agreement and must endeavour to secure its passage as an Act.
- (4) If by 30 June 2018 this Agreement has not been ratified by an Act of the Parliament of Western Australia then, unless the parties to this Agreement otherwise agree, this Agreement terminates on that day and no party hereto will have any claim against any other party hereto with respect to any matter or thing arising out of, done, performed, or omitted to be done or performed under this Agreement.
- (5) The parties agree that if the Principal Agreement is otherwise determined in accordance with its provisions on a day prior to the Operative Date, then this Agreement shall also terminate on and from that day and no party hereto will have any claim against any other party hereto with respect to any matter or thing arising out of, done, performed, or omitted to be done or performed under this Agreement.

2. Variations of the Principal Agreement

The Principal Agreement is hereby varied as follows:

- (1) in clause 1 by:
 - (a) inserting in the appropriate alphabetical positions the following new definitions:
 - "including"** means "including, but not limited to";
 - "Kwinana pigment plant"** means the plant and associated facilities established and operated under this Agreement at Kwinana for the production of titanium dioxide pigment;
 - "Muchea dry processing plant"** means the plant and associated facilities established and operated under this Agreement at Muchea for the separation into component heavy minerals of rock soil or sand bearing heavy minerals which have been concentrated prior to such separation;
 - "Muchea synthetic rutile plant"** means the plant and associated facilities established and operated

under this Agreement at Muchea for the production of synthetic rutile;

"Non-Mining Lease heavy mineral concentrates" means Non-Mining Lease ore concentrated prior to separation into component heavy minerals;

"Non-Mining Lease ore" means any rock, soil or sand bearing heavy minerals mined from areas other than areas within the Mining Lease and whether within or outside Australia;

"titanium slag" means any upgraded titaniferous mineral other than synthetic rutile; and

- (b) in the definition of "heavy minerals" by deleting "heavy mineral concentrates" and substituting "rock, soil or sand bearing heavy minerals which have been concentrated prior to such separation";
- (2) in clause 7 by inserting after subclause (2) the following new subclause:
 - "(3) (a) The Joint Venturers may with the approval of the Minister and for the principal purpose of providing feedstock to any one or more of the Muchea dry processing plant, the Muchea synthetic rutile plant and the Kwinana pigment plant blend:
 - (i) heavy mineral concentrates with Non-Mining Lease heavy mineral concentrates;
 - (ii) a heavy mineral resulting from the separation of heavy mineral concentrates, or blended concentrates as referred to in subparagraph (i) above, with the same type of heavy mineral resulting from the separation of Non-Mining Lease heavy mineral concentrates.

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The Minister shall within 2 months after receipt of a request from the Joint Venturers for the Minister's approval to undertake any such blending in accordance with this subclause (3), give notice to the Joint Venturers of his decision in respect of that request.

- (b) The authority given under paragraph (a) is subject to the Minister being reasonably satisfied that there is in place adequate systems and controls for the correct apportionment between the Mining Lease and the areas from which Non-Mining Lease ore is being mined of the quantities of the heavy minerals resulting from the separation of the blended concentrates and/or heavy mineral being blended as the case may be and which systems and controls monitor production, concentration, processing, transportation, stockpiling and shipping activities in respect of all such blended heavy minerals. If at any time the Minister ceases to be so satisfied the Minister may, after consulting the Joint Venturers and provided that the Joint Venturers have not within 3 months after the commencement of such consultation addressed the matters of concern to the Minister's satisfaction, by notice in writing to the Joint Venturers suspend the above authority in respect of the relevant blending arrangements until the Minister is again satisfied in terms of this paragraph (b).
- (c) During the currency of an authority given under paragraph (a) the Joint Venturers must, for the purposes of the correct apportionment referred to in paragraph (b) between the Mining Lease and the areas from which Non-Mining Lease ore is being mined, keep the Minister fully informed of the area or

areas from which Non-Mining Lease ore is being mined.

- (d) The provisions of the Mining Act shall apply with respect to the calculation and payment of royalties in regard to such blended mineral products and the submission and auditing of royalty returns.";

- (3) in clause 11 by:

- (a) deleting in the first line "If" and substituting "Subject to Clause 11A, if"; and
- (b) inserting after "Clause 9":

"(but with the reference in subclause (2) to "section 40(1)(b) of the EP Act" being read as a reference to "Part IV of the EP Act")";

- (4) by inserting after clause 11 the following new clauses:

**"Non-Mining Lease heavy mineral concentrates and other
Non-Mining Lease derived feedstocks**

11A.(1) During the continuance of this Agreement the Joint Venturers may, subject to the EP Act and the other provisions of this Agreement, submit to the Minister detailed proposals (including, in connection with any proposed new works, plans where practicable and specifications where reasonably required by the Minister and any other details normally required by a local government in whose area any such new or modified works are to be situated) with respect to:

- (a) the separation into heavy minerals at the Muchea dry processing plant of Non-Mining Lease heavy mineral concentrates (including as part of blended concentrates as referred to in Clause 7(3)(a)(i));

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- (b) the use in the production of synthetic rutile at the Muchea synthetic rutile plant of:
 - (i) blended heavy minerals as referred to in Clause 7(3)(a)(ii);
 - (ii) heavy minerals resulting from the separation of Non-Mining Lease heavy mineral concentrates (including as part of blended concentrates as referred to in Clause 7(3)(a)(i)), whether such separation occurs at the Muchea dry processing plant as referred to in paragraph (a) above or, if the Joint Venturers so wish, elsewhere;
- (c) the use in the production of titanium dioxide pigment at the Kwinana pigment plant of:
 - (i) synthetic rutile, whether produced at the Muchea synthetic rutile plant as referred to in paragraph (b) above or, if the Joint Venturers so wish, elsewhere;
 - (ii) blended heavy minerals as referred to in Clause 7(3)(a)(ii);
 - (iii) heavy minerals resulting from the separation of Non-Mining Lease heavy mineral concentrates (including as part of blended concentrates as referred to in Clause 7(3)(a)(i)), whether

such separation occurs at the Muchea dry processing plant as referred to in paragraph (a) above or, if the Joint Venturers so wish, elsewhere;

- (iv) if the Joint Venturers so wish, titanium slag,

which proposals shall include the location, area, lay-out, design, quantities, materials and time programme for the commencement and completion of construction or the provision (as the case may be) of each of the following matters:

- (d) the modification or expansion of any one or more of the Muchea dry processing plant, the Muchea synthetic rutile plant and the Kwinana pigment plant including the establishment and operation of new works as part of those facilities;
- (e) water supplies;
- (f) energy supplies;
- (g) if applicable, the transport by road:
 - (i) from the Mining Lease to the Muchea dry processing plant (for processing in that plant) of blended concentrates as referred to in Clause 7(3)(a)(i);
 - (ii) from the Muchea dry processing plant or the Muchea synthetic rutile plant as the case may be to the Kwinana pigment plant (for processing in that plant) of resulting heavy minerals referred to in paragraph (a) above or

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synthetic rutile produced as referred to in paragraph (b) above;

(iii) of waste as referred to in paragraph (l) of this subclause (1);

- (h) during the continuance of this Agreement, the temporary storage upon the Mining Lease of Non-Mining Lease heavy mineral concentrates for the purpose of blending with heavy mineral concentrates;
 - (i) any other works, services or facilities desired by the Joint Venturers in connection with the proposed operations;
 - (j) use of local professional services labour and materials and measures to be taken with respect to the engagement and training of employees by the Joint Venturers, their agents and contractors;
 - (k) measures to be taken for the protection and management of the environment including rehabilitation and/or restoration of storage areas upon the Mining Lease; and
 - (l) the disposal or storage of waste resulting from proposed operations at the Muchea dry processing plant, the Muchea synthetic rutile plant and the Kwinana pigment plant as referred to in paragraphs (a), (b) and (c) above.
- (2) The provisions of subclauses (2) to (4) of Clause 8 and the provisions of Clause 9 (but with the reference in subclause (2) to "section 40(1)(b) of the EP Act" being read as a reference to "Part IV of the EP Act") shall *mutatis mutandis* apply to proposals submitted pursuant to subclause (1).

- (3) If the Joint Venturers at any time during the continuance of this Agreement desire to significantly modify, expand or otherwise vary their activities referred to in subclause (1)(a), (b) or (c) beyond those activities specified in any proposals submitted and approved pursuant to this Clause they shall give notice of such desire to the Minister and if required by the Minister within 2 months thereafter shall submit to the Minister (within such period as the Minister may reasonably require) detailed proposals in respect of all matters covered by such notice and such of the other matters mentioned in subclause (1) as the Minister may require. For the avoidance of doubt, this subclause shall also apply where the Joint Venturers propose to commence undertaking an activity referred to in subclause (1)(a), (b) or (c) which is not already specified in any proposals submitted and approved pursuant to this Clause.
- (4) To avoid doubt the parties acknowledge that that the provisions of this Agreement do not apply to:
- (a) the mining or concentration of Non-Mining Lease ore; or
 - (b) the transport of Non-Mining Lease heavy mineral concentrates (other than as referred to in subclause (1)(g)(i)); or
 - (c) the transport of heavy minerals resulting from the separation of Non-Mining Lease heavy mineral concentrates (other than as referred to in subclause (1)(g)(ii)); or
 - (d) the transport of synthetic rutile produced using heavy minerals resulting from the separation of Non-Mining Lease heavy mineral concentrates (other than as referred to in subclause (1)(g)(ii)); or
 - (e) the transport of titanium slag.

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- (5) The Joint Venturers acknowledge that the provisions both of Clause 7(3) and of this Clause 11A are intended to enable them to continue their processing operations under this Agreement by expanding the sources of feedstock for any one or more of the Muchea dry processing plant, the Muchea synthetic rutile plant and the Kwinana pigment plant. For the avoidance of doubt the Joint Venturers acknowledge that, subject to Clause 23 of this Agreement, they must in accordance with this Agreement and approved proposals continue to operate the Muchea dry processing plant, the Muchea synthetic rutile plant and the Kwinana pigment plant during the continuance of this Agreement.

Provision of services and sharing of Agreement mine infrastructure with proposed Cooljarloo West and Jurien mining projects

- 11B. The Joint Venturers may during the continuance of this Agreement and with the Minister's prior consent use any existing or new works installations or facilities forming part of their mining operations upon the Mining Lease and constructed, held under or used for the purposes of this Agreement for the purposes of developing and operating under and in accordance with the Mining Act their proposed mining projects at:
- (a) Cooljarloo West (upon land the subject of mining leases 70/1314 and 70/1333, any mining lease or leases granted upon the conversion of exploration licences 70/4129 and 70/4130 and such other mining lease or mining leases granted to or acquired by the Joint Venturers for the purposes of their heavy mineral project or projects at Cooljarloo West as the Minister may approve); and
 - (b) Jurien (upon land the subject of mining leases 70/434, 70/435 and 70/436 and such

other mining lease or mining leases granted to or acquired by the Joint Venturers for the purposes of their heavy mineral project or projects at Jurien as the Minister may approve).";

- (5) by deleting clause 17;
- (6) in clause 33 by:
 - (a) in subclause (1) deleting "1985" and substituting "2012"; and
 - (b) in subclause (1) deleting "notwithstanding section 20(1) of that Act"; and
- (7) in clause 35 by:
 - (a) in subclause (3) inserting after the words "Mining Lease as they":

", subject to subclause (4),"; and
 - (b) inserting after subclause (3) the following new subclause:

"(4) The Joint Venturers must include in their nomination under subclause (3) all of the area at the time the subject of the Mining Lease apart from any area or areas of the Mining Lease which, to the satisfaction of the Minister for Mines as confirmed in writing to the Joint Venturers before their nomination is made, has or have, as the case may be, been rehabilitated and/or restored in accordance with the approved project or approved proposals, as the case may be, and any conditions applying thereto under or pursuant to the Mining Lease, this Agreement or the EP Act."

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EXECUTED AS A DEED.

SIGNED by the **HONOURABLE**)
MARK McGOWAN, in the)
presence of:)

[Signature]

[Signature]

.....
Signature of **THE HONOURABLE**
MARK McGOWAN

Signature of witness

TRENA MCDONALD

.....
Name of witness (block letters)

EXECUTED by **TRONOX**)
MANAGEMENT PTY LTD)
ABN 59 009 343 364 in)
accordance with section 127(1) of)
the *Corporations Act 2001* (Cth))
by authority of its directors:)

[Signature]

[Signature]

.....
Signature of director

.....
Signature of director/~~company~~
~~secretary~~*

*delete whichever is not applicable

STEVEN KAYE

RICHARD L MUGLIA

.....
Name of director (block letters)

.....
Name of director/~~company~~
~~secretary~~* (block letters)

*delete whichever is not applicable

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