



Compensatory Water Supply Agreement

KEPCO Bylong Australia Pty Ltd (KEPCO)
[**#insert name of landholder**] (Landholder)

Compensatory Water Supply Agreement

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Details

Date

Parties

Name	KEPCO Bylong Australia Pty Ltd ACN 075 361 769
ABN	79 075 361 769
Short form name	KEPCO
Notice details	Level 12, 141 Walker Street, North Sydney NSW 2060

Name	[#insert name of landholder]
Short form name	Landholder
Notice details	[#insert address of landholder]

Background

- A KEPCO is:
- (i) the proponent of the Project; and
 - (ii) has obtained or will obtain the Development Consent under the EPA Act.
- B The Landholder is the owner of the Property.
- C The Property is located in the area that is not predicted to be Adversely Impacted, in terms of surface water and/or groundwater supply, by the Project.
- D KEPCO acknowledges that, if the Existing Water Supply on the Property is Adversely Impacted as a direct result of the Project, it will need to provide Interim Water Supply, implement Compensatory Water Supply Measures and/or pay the Compensation Payment.
- E KEPCO has agreed to undertake the Baseline Assessment and the measures detailed in this Deed to monitor and respond to any adverse impacts on the Existing Water Supply as a direct result of the Project, on the terms and conditions set out in this Deed.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this Deed:

Adversely Impacted means an impact to the quantity or quality of water in the Existing Water Supply on the Property exceeding the trigger levels and/or performance criteria in the Baseline Assessment (other than a negligible impact) as a result of the Project.

Approval means any consent, approval, authorisation, licence, registration, order, permission or concurrence required by Law.

Baseline Assessment means the baseline assessment carried out for the Existing Water Supply on the Property in accordance with clause 5.1.

Business Day means any day except for a Saturday, Sunday or public holiday in the State of New South Wales.

Claim means any claim, demand or proceeding arising out of any cause of action, including breach of contract, tort (including negligence), any other common law, equitable or statutory cause of action.

Commencement Date means the day on which this Deed is executed by all of the parties.

Compensation Payment means the amount of money agreed by the Parties or otherwise determined in accordance with clause 9.1.

Compensatory Water Supply Measures means any measures necessary to reinstate the Landholder to the position they would have been but for the Project undertaken by KEPCO which have resulted in the Existing Water Supply becoming Adversely Impacted, as agreed or determined in accordance with clause 8.1.

Condition 25 means draft condition 25 of Schedule 4 of the proposed development consent for the Project as contained in Annexure H of the DPE Assessment Report dated 4 October 2018, as modified from time to time. For abundant clarity, draft condition 25 is set out in full at Schedule 1 to this Deed.

Corporations Act means the *Corporations Act 2001* (Cth).

CPI means the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics.

Deed means this deed, including any schedules and annexures.

Development Application means State Significant Development Application No. SSD 14_6367 for the Project lodged under Division 4.1 of Part 4 of the EPA Act, as modified from time to time.

Development Consent means any development consent granted in respect of the Development Application, as approved and modified from time to time.

DPE means the NSW Department of Planning and Environment.

Environmental Impact Statement means the Environmental Impact Statement for the Bylong Coal Project dated September 2015 prepared by Hansen Bailey which is available on the Major Project Assessments Register kept by the NSW Department of Planning and Environment: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=6367

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

Existing Water Supply means surface water and/or groundwater supply lawfully available and licensed on the Property, including via existing bores and any subsequent bores installed by the Landholder, dams and other water supply infrastructure located on the Property.

GST has the same meaning as in the GST Law.

GST Law has the same meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Interim Water Supply means the provision of temporary water supply by KEPCO to the Landholder for domestic water and livestock purposes only. The purpose of this supply is to temporarily mitigate the Existing Water Supply being Adversely Impacted as a direct result of the Project to the extent that such impacts will affect the availability of water supply for domestic or livestock use only pending the implementation of the Compensatory Water Supply Measures in accordance with clause 8.2.

KEPCO Notification means notice provided by KEPCO to the Landholder in accordance with clause 7.2.

Landholder Notification has the same meaning as in clause 7.1(a).

Law means:

- (a) any statute, regulation, rule, proclamation, order, ordinance or by-law whether present or future and whether Commonwealth, State, territorial or local; and
- (b) the common law.

Mining Act means the *Mining Act 1992* (NSW).

Party means KEPCO and the Landholder jointly or severally, as the context requires.

Project means the Bylong Coal Project, being the proposed development of an open cut and underground coal mine generally described in the Development Application and Environmental Impact Statement and on the land described in Appendix A of the Environmental Impact Statement.

Property means the property known as [insert address] and identified as Lot [insert number] in DP [insert number] owned by the Landholder.

Secretary means the Secretary of DPE or duly authorised delegate or nominee.

Water Approval means any Approval granted in respect of the Property under the Water Legislation.

Water Legislation means the *Water Act 1912* (NSW) and *Water Management Act 2000* (NSW), as well as any associated legislation.

Water Management Plan means the water management plan to be prepared and implemented by KEPCO accordance with condition 28 of Schedule 4 of the Development Consent.

1.2 Interpretation

In this Deed, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement, and a reference to this Deed includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) a reference to a party is to a party to this Deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;

- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) words and expressions which are not defined in this Deed but which have a defined meaning in the GST Law have the same meaning as in the GST Law;
- (o) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it; and
- (p) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2. Commencement

This Deed operates on and from the Commencement Date.

3. Intention

The intention of the Parties is:

- (a) to recognise, for the purposes of Condition 25, that the Parties have agreed on methods and procedures to be undertaken by KEPCO to implement any Compensatory Water Supply Measures on the Property if the Landholder's Existing Water Supply is Adversely Impacted by the Project;
- (b) for KEPCO to access the Property to undertake the Baseline Assessment;
- (c) for KEPCO to undertake ongoing monitoring and review of impacts of the Project on the surface water and/or groundwater for the Property (including piezometric, water supply and water quality information) and for the monitoring results to be made available to the Landholder upon request;
- (d) for KEPCO to carry out the Compensatory Water Supply Measures if it is determined that surface water and/or groundwater available to the Property is Adversely Impacted by the Project;
- (e) in the event that KEPCO is unable to carry out the Compensatory Water Supply Measures, to provide for compensation to the Landholder; and
- (f) to indicate when the obligations under this Deed will cease or terminate.

4. Landholder's responsibilities

The Landholder shall:

- (a) use and take the Existing Water Supply on the Property prudently, in accordance with sound operating practices and in accordance with all Water Approvals;

- (b) keep, maintain and make available on request to KEPCO the records relating to the Landholder's use and take of the Existing Water Supply on the Property in accordance with all Water Approvals;
- (c) allow the installation, reading and maintenance of meters to record hours of operation of pumps and volumes of water taken from the Existing Water Supply on the Property by, and at the expense of, KEPCO; and
- (d) promptly give notice in accordance with clause 7.1 to KEPCO of any material changes observed by the Landholder in relation to the water level, water quality and pumping capacity of the Existing Water Supply on the Property.

5. Baseline Assessment

5.1 KEPCO to undertake Baseline Assessment

KEPCO shall, within six months of the Commencement Date, commence and continue to carry out a Baseline Assessment of any Existing Water Supply on the Property to collate as much information as is reasonably practicable regarding the quality and quantity of water in the Existing Water Supply and will provide a copy of that Baseline Assessment to the Landholder.

5.2 Landholder to cooperate

The Landholder will provide:

- (a) all information within the Landholder's knowledge, possession or control regarding any Existing Water Supply on the Property for incorporation into the Baseline Assessment prepared by KEPCO in accordance with clause 5.1; and
- (b) copies of all Water Approvals for the Property.

6. Access to the Property

6.1 Landholder's obligations

The Landholder shall allow reasonable access to KEPCO and all persons nominated by KEPCO to the Property for the purposes of performing any of KEPCO's obligations or exercising any of its rights under this Deed.

6.2 Reasons for access to the Property

The Landholder acknowledges that KEPCO will require access to the Property to, among other things:

- (a) carry out the Baseline Assessment;
- (b) carry out periodic monitoring in accordance with the Water Management Plan;
- (c) undertake an assessment following a Landholder Notification from the Landholder in accordance with clause 7.1;
- (d) deliver any Interim Water Supply; and
- (e) implement the Compensatory Water Supply Measures and to measure their effectiveness.

6.3 Access by KEPCO

Where KEPCO accesses the Property under this Deed, KEPCO:

- (a) must give 24 hours prior notice by telephone before entry, except if there is an emergency, a delivery of Interim Water Supply or a need to investigate a Landholder Notification immediately, in which case KEPCO must make every reasonable endeavour to notify the Landholder as soon as possible, by phone or other means;
- (b) must have regard to any reasonable requests of the Landholder;
- (c) must minimise, so far as is reasonably practicable, disturbance to the Landholder and the Landholder's operations;

- (d) must comply with any land access protocols notified by the Landholder from time to time; and
- (e) must repair and reinstate, so far as is practicable and necessary, the area to the condition it was in prior to KEPCO exercising its right of access under clause 6.1.

7. Trigger for Compensatory Water Supply Measures

7.1 Notification issued by Landholder

- (a) If the Landholder considers, on reasonable grounds, that the Existing Water Supply for the Property is Adversely Impacted as a direct result of the Project, the Landholder may give written notice to KEPCO (**Landholder Notification**). The Landholder Notification must include:
 - (i) reasonable evidence in support obtained from the Landholder's own records (kept in accordance with this Deed); and
 - (ii) a reasonable estimate of the shortfall in surface water and/or groundwater (as the case may be) available to the Property (on a kilolitres per day basis) needed to offset the reduction in the Existing Water Supply to the extent that it has been Adversely Impacted as a direct result of the Project.
- (b) In relation to a Landholder Notification provided under clause 7.1(a), KEPCO may (at its absolute discretion) investigate and/or test the Property, the Existing Water Supply (including associated infrastructure) and the Landholder's water management practices in order to verify the evidence provided by the Landholder.

7.2 Adverse impact identified by KEPCO

If monitoring undertaken by KEPCO indicates that the Existing Water Supply is being Adversely Impacted as a direct result of the Project, KEPCO must provide notice to the Landholder about the potential impact that has been identified (**KEPCO Notification**), including:

- (a) reasonable evidence in support obtained from the monitoring; and
- (b) a reasonable estimate of the shortfall in surface water and/or groundwater (as the case may be) available to the Property (on a kilolitres per day basis) needed to offset the reduction in the Existing Water Supply to the extent that it has been Adversely Impacted as a direct result of the Project.

7.3 Response to notifications

- (a) Promptly after the Landholder Notification or the KEPCO Notification is provided in accordance with clause 7.1 or 7.2 respectively, the Parties shall meet to try to agree in good faith:
 - (i) whether or not impacts on availability of the Existing Water Supply for the Property to satisfy the Landholder's water use needs are directly attributable to the Project;
 - (ii) the shortfall in available surface water and/or groundwater as described in clause 7.1(a)(ii); and
 - (iii) whether any Compensatory Water Supply Measures proposed by KEPCO are appropriate (and the Landholder must act reasonably in considering any proposals put forward by KEPCO).
- (b) If the Parties agree that the Existing Water Supply is being Adversely Impacted as a direct result of the Project, then KEPCO shall document the nature of the agreed Compensatory Water Supply Measures in a letter to the Landholder.
- (c) If the Parties do not agree:
 - (i) that the Existing Water Supply is being Adversely Impacted as a direct result of the Project; or
 - (ii) on the nature of the Compensatory Water Supply Measures required,

either party may refer the matter for dispute resolution in accordance with the process detailed in clause 11.2.

8. Provision of Compensatory Water Supply Measures

8.1 Interim Water Supply

- (a) An Interim Water Supply must be provided by KEPCO within 24 hours of receipt of the Landholder Notification.
- (b) KEPCO must continue to provide the Interim Water Supply to the Landholder until the implementation of the Compensatory Water Supply Measures is completed in accordance with clause 8.2.
- (c) In providing the Interim Water Supply, KEPCO must ensure that the volume of water to be provided is sufficient to meet the shortfall in available surface water and/or groundwater as described in clause 7.1(a)(ii), as experienced by the Landholder during the relevant period.
- (d) Prior to the first delivery of the Interim Water Supply, the Landholder must promptly notify KEPCO of a single location for the water truck to deliver the Interim Water Supply and such location must be reasonable capable of being accessed by the water truck. If this is not feasible and practicable, the Parties must use reasonable endeavours to reach agreement on the appropriate manner and means of the delivery of the Interim Water Supply.
- (e) For the avoidance of doubt, KEPCO is not required to provide an Interim Water Supply to the Landholder for any purpose other than domestic and/or livestock use.
- (f) If an Interim Water Supply is provided by KEPCO to the Landowner and it is found that the Existing Water Supply was not Adversely Impacted as a direct result of the Project, KEPCO may (at its absolute discretion) seek a reimbursement of all costs associated with the Interim Water Supply for each and every day on which the Interim Water Supply was provided to the Landholder after 14 calendar days. For the avoidance of doubt, the Landholder will not be liable to reimburse KEPCO for any such Interim Water Supply provided in the first 14 calendar days.

8.2 Compensatory Water Supply Measures

Where the Compensatory Water Supply Measures are agreed between the Parties in accordance with clause 7.3, KEPCO shall implement the Compensatory Water Supply Measures as soon as reasonably practicable after providing the letter to the Landholder.

8.3 Provision of Compensatory Water Supply Measures

The Compensatory Water Supply Measures to be provided by KEPCO must:

- (a) be prepared in consultation with the Department of Industry, Division of Water and approved by the Secretary in accordance with Condition 25; and
- (b) provide a compensatory water supply to the Landholder that is equivalent to the loss experienced by the Existing Water Supply that has been Adversely Impacted as a direct result of the Project.

9. Compensation

9.1 Method to determine value of Compensation Payment

- (a) If agreement cannot be reached between the Parties regarding the Compensatory Water Supply Measures to be implemented at the Property under clause 7.3 or if KEPCO is unable to carry out Compensatory Water Supply Measures, the Parties shall use reasonable endeavours to determine the Compensation Payment to be made to the Landholder in lieu of the provision of Compensatory Water Supply Measures.

- (b) If the Parties cannot agree on the Compensation Payment in accordance with clause 9.1(a), then either party may refer the matter to the Secretary for a determination as to the appropriate Compensation Payment to be made in accordance with Condition 25. Such determination is final and binding.

9.2 Approval of Compensation Payment by Secretary

If the Parties agree on the Compensation Payment in accordance with clause 9.1(a), then the agreed Compensation Payment will be final and binding on KEPCO and the Landholder.

9.3 Making Compensation Payment

KEPCO will pay the Compensation Payment to the Landholder within 20 Business Days of receiving written approval or a final determination (as the case may be) from the Secretary.

9.4 No further compensation claim

The Landholder agrees that the obligations of KEPCO in this Deed are accepted by the Landholder in full and final satisfaction of any Claim which the Landholder may have against KEPCO at any time in respect of the relevant or particular event whereby the Existing Water Supply was Adversely Impacted as a direct result of the Project.

10. Monitoring

Unless otherwise agreed by the Parties:

- (a) groundwater quality and levels on the Property must be monitored by KEPCO at the locations and frequencies identified in the Water Management Plan, as approved from time to time; and
- (b) monitoring results will be provided to the Landholder upon request for the purpose assessing groundwater levels at the Property.

11. Dispute resolution

11.1 Negotiation

If there is a difference between the Parties arising out of or in connection with this Deed (**Dispute**), then a Party notifying the other Party in writing of a Dispute, a representative from KEPCO must meet with the Landholder and their advisers and use all reasonable endeavours acting in good faith to resolve the Dispute within 15 Business Days.

11.2 Referral to the NSW Land and Water Commissioner

- (a) If the Dispute is not settled within 15 Business Days, either Party may refer the Dispute to the NSW Land and Water Commissioner for adjudication (if the Commissioner is willing to adjudicate the Dispute).
- (b) The Parties must use reasonable endeavours to have the Dispute Adjudicated within a further 15 Business Days.
- (c) Any such adjudication is not final or binding, however may be considered by the Secretary in the event that clause 11.3 is triggered.

11.3 Resolution by Secretary

- (a) If the Dispute is not settled or adjudicated (as the case may be) within 30 Business Days of notification, the Parties must submit the Dispute to the Secretary for resolution in accordance with Condition 25.
- (b) The determination of the Secretary is final and binding

12. Costs

12.1 Cost reimbursement

KEPCO will reimburse the reasonable legal costs of the Landholder in relation to the negotiation, preparation and execution of this Deed, subject to the provision of relevant tax invoices, up to a maximum of \$1,000 (GST exclusive).

12.2 Stamp duty

KEPCO will pay any stamp duty imposed on this Deed or the transaction envisaged by this Deed.

13. Dealing with the Property

13.1 Landholder not to deal adversely with Property

The Landholder shall not, during the term of this Deed, enter into any agreement or arrangement which would or might adversely affect the Landholder's ability to comply with the obligations imposed on the Landholder under this Deed.

13.2 Sale or disposal of the Property

If the Landholder transfers or otherwise disposes with the Property or any interest in the Property the Landholder must, before completion of that transfer or other dealing, novate its rights and obligations under this Deed (to the extent of the interest transferred) to the transferee under a deed of novation in a form reasonably acceptable to KEPCO under which the transferee or other party agrees with KEPCO to be bound by the terms of this Deed.

14. Termination

14.1 Termination of Deed

This Deed terminates on the earliest of:

- (a) the written agreement of the Parties;
- (b) KEPCO deciding not to proceed with the Project and providing written notice; or
- (c) the expiry or surrender of the Development Consent.

14.2 KEPCO released from further obligations

On the termination of this Deed in accordance with clause 14.1, KEPCO is released from any further obligations to provide any Compensatory Water Supply or make a Compensation Payment to the Landholder.

15. Notices and other communications

15.1 Service of notices

A notice, demand, consent, approval or communication under this Deed (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender.

15.2 Effective on receipt

A Notice given in accordance with clause 15.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery; or

- (b) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia),

but if the delivery or receipt is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

16. GST

16.1 Consideration

- (a) Any consideration to be paid or provided under or in connection with this Deed, unless specifically described in this Deed as 'GST inclusive', does not include an amount on account of GST.
- (b) If and to the extent, for any reason, a supply under or in connection with this Deed specifically described in this Deed as 'GST inclusive' is not subject to GST, the amount payable or other consideration to be provided for that supply shall be reduced by 1/11th and if and to the extent that a payment has already been made for that supply, the payee shall refund that component.

16.2 Gross up of consideration

Despite any other provision in this Deed, if a party (**Supplier**) makes a supply under or in connection with this Deed on which GST is imposed (not being a supply the consideration for which is specifically described in this Deed as 'GST inclusive'):

- (a) the consideration payable or to be provided for that supply under this Deed, but for the application of this clause (**GST exclusive consideration**), is increased by, and the recipient of the supply (**Recipient**) must also pay to the Supplier, an amount equal to the GST payable on the supply (**GST Amount**); and
- (b) the GST Amount must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.

16.3 Reimbursements (net down)

If a payment to a party under this Deed is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party, or the representative member of a GST group of which that party is a member, is entitled for that loss, cost or expense.

16.4 Exclusion of GST from calculations

If a payment is calculated by reference to or as a specified percentage of another amount or revenue stream, that payment shall be calculated by reference to or as a specified percentage of the amount or revenue stream exclusive of GST.

16.5 Tax invoice

The Recipient need not pay the GST Amount until the Supplier has given the Recipient a tax invoice for the supply to which the payment relates.

16.6 GST obligations to survive termination

This clause 16 will continue to apply after expiration or termination of this Deed.

17. General

17.1 Amendments

This Deed may only be amended or varied by a later written agreement between all parties.

17.2 Assignment

KEPCO does not require the consent of the Landholder to assign this Deed or a right under this Deed.

17.3 Entire agreement

This Deed supersedes all previous agreements about its subject matter. This Deed embodies the entire agreement between the parties.

17.4 Further assurances

Each party must do all things reasonably necessary to give effect to this Deed.

17.5 No waiver

- (a) The failure of a party to require full or partial performance of a provision of this Deed does not affect the right of that party to require performance subsequently.
- (b) A right under this Deed may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

17.6 Relationship between parties

- (a) Nothing in this Deed:
 - (i) constitutes a partnership between the parties; or
 - (ii) except as expressly provided, makes a party an agent of another party for any purpose.
- (b) A party cannot in any way or for any purpose:
 - (i) bind another party; or
 - (ii) contract in the name of another party.
- (c) If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

17.7 Time for doing acts

- (a) If the time for doing any act or thing required to be done or a notice period specified in this Deed expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5pm on the specified day, it is taken to have been done on the following Business Day.

17.8 Severability

- (a) A clause or part of a clause of this Deed that is illegal or unenforceable may be severed from this Deed and the remaining clauses or parts of the clause of this Deed continue in force.
- (b) If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this Deed in the relevant jurisdiction, but the rest of this Deed will not be affected.

17.9 Governing law and jurisdiction

- (a) The laws of the State of New South Wales govern this Deed.
- (b) Each party irrevocably submits to the exclusive jurisdiction of the New South Wales courts and courts competent to hear appeals from those courts.

Schedule 1– Condition 25

Compensatory Water Supply

25.

The Applicant must provide a compensatory water supply to the landowner of privately-owned land whose water supply is adversely and directly impacted (other than a negligible impact) as a result of the development, in consultation with DoI Water, and to the satisfaction of the Planning Secretary.

The compensatory water supply measures must provide an alternative supply of water that is equivalent, in quality and volume, to the loss attributable to the development. Equivalent water supply should be provided (at least on an interim basis) as soon as practicable after the loss is identified, unless otherwise agreed with the landowner.

If the Applicant and the landowner cannot agree on whether the loss of water is to be attributed to the development or the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Planning Secretary for resolution.

If the Applicant is unable to provide an alternative long-term supply of water, then the Applicant must provide compensation, to the satisfaction of the Planning Secretary.

However, this condition does not apply if the Applicant has a compensatory water agreement with the owner/s of the land and the Applicant has advised the Department in writing of the terms of this agreement.

Notes:

- The Water Management Plan (see condition 28) is required to include trigger levels for investigating potentially adverse impacts on water supplies.
- The burden of proof that any loss of water supply is not due to mining impacts rests with the Applicant.

Signing page

EXECUTED as an deed.

**Signed, sealed and delivered by KEPCO
Bylong Australia Pty Ltd ACN 075 361 769** in
accordance with section 127 of the Corporations
Act 2001 (Cth) by:

Signature of director

Name of director (print)

Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)

Signed, sealed and delivered by [insert name]
in the presence of

Signature of witness

Name of witness (print)

Signature of landholder

Name of landholder (print)

