

Western Australia

Collie Coal (Griffin) Agreement Amendment Bill 2024

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Western Australia

LEGISLATIVE ASSEMBLY

**Collie Coal (Griffin) Agreement Amendment
Bill 2024**

A Bill for

An Act to amend the *Collie Coal (Griffin) Agreement Act 1979*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Collie Coal (Griffin) Agreement Amendment*
3 *Act 2024*.

4 **2. Commencement**

5 This Act comes into operation as follows —

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

9 **3. Act amended**

10 This Act amends the *Collie Coal (Griffin) Agreement Act 1979*.

11 **4. Section 2 amended**

12 (1) In section 2 delete the definition of *Agreement*.

13 (2) In section 2 insert in alphabetical order:

14
15 ***2024 variation agreement*** means the agreement a copy
16 of which is set out in Schedule 3;

17 ***Agreement*** means the agreement a copy of which is set
18 out in Schedule 1 and includes that agreement —

- 19 (a) as varied from time to time in accordance with
20 its provisions; and
21 (b) as varied by the 2023 variation agreement; and
22 (c) as varied by the 2024 variation agreement.
23

1 **5. Section 5 inserted**

2 After section 4 insert:

3

4 **5. Ratification of 2024 variation agreement**

- 5 (1) The 2024 variation agreement is ratified.
- 6 (2) The implementation of the 2024 variation agreement is
7 authorised.
- 8 (3) Without limiting or otherwise affecting the
9 *Government Agreements Act 1979*, the 2024 variation
10 agreement operates and takes effect despite any
11 enactment or other law.
12

13 **6. Schedule 3 inserted**

14 After Schedule 2 insert:

15

16 **Schedule 3 — 2024 variation agreement**

17

[s. 2]

18

2024

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**THE HONOURABLE ROGER COOK
PREMIER OF THE STATE OF WESTERN AUSTRALIA**

22

23

24

AND

25

**THE GRIFFIN COAL MINING COMPANY PTY LIMITED
(RECEIVERS AND MANAGERS APPOINTED) (IN
LIQUIDATION)
ACN 008 667 285**

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COLLIE COAL (GRIFFIN) AGREEMENT 1979
RATIFIED VARIATION AGREEMENT

[Solicitor's details]

THIS AGREEMENT is made this 30th day of May 2024

BETWEEN

THE HONOURABLE ROGER COOK, M.L.A., Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time ("**the State**") of the one part

AND

THE GRIFFIN COAL MINING COMPANY PTY LIMITED ACN 008 667 285 (receivers and managers appointed) (in liquidation) of Level 1, 7 Rheola Street, West Perth, Western Australia ("**the Company**") of the other part.

RECITALS

A. The State and the Company are the parties to the agreement dated 5 November 1979 (which was ratified by and is scheduled to the *Collie Coal (Griffin) Agreement Act 1979*) and which as subsequently varied by the agreement dated 4 May 2023 (which was ratified by the *Collie Coal (Griffin) Agreement Amendment Act 2023*) is referred to in this Agreement as the "**Principal Agreement**".

1 **B.** The parties wish to vary the provisions of the Principal Agreement
2 on the terms and conditions set out in this Agreement.

3

4 **THE PARTIES AGREE AS FOLLOWS:**

5 **1. Ratification and operation**

6 (1) This Agreement, other than this clause, does not come into
7 operation except in accordance with subclause (2).

8 (2) This Agreement, other than this clause, comes into operation on the
9 day on which it is ratified by an Act of the Parliament of Western
10 Australia ("**Operative Date**") unless, before that day, it terminates
11 under subclauses (4) or (5).

12 (3) The State must introduce in the Parliament of Western Australia on
13 or before 15 August 2024 or a later date agreed between the parties
14 to this Agreement, a Bill to ratify this Agreement and must
15 endeavour to secure its passage as an Act.

16 (4) If by 31 December 2024 this Agreement has not been ratified by an
17 Act of the Parliament of Western Australia then, unless the parties
18 to this Agreement otherwise agree, this Agreement terminates on
19 that day and no party hereto will have any claim against any other
20 party hereto with respect to any matter or thing arising out of,
21 done, performed, or omitted to be done or performed under this
22 Agreement.

23 (5) The parties agree that if the Principal Agreement is otherwise
24 determined in accordance with its provisions on a day prior to the
25 Operative Date, then this Agreement shall also terminate on and
26 from that day and no party hereto will have any claim against any
27 other party hereto with respect to any matter or thing arising out of,
28 done, performed, or omitted to be done or performed under this
29 Agreement.

30 (6) The State acknowledges and agrees that, notwithstanding any other
31 provision of this Agreement or the Principal Agreement:

32 (a) Matthew Donnelly, Sean Holmes and Grant Sparks
33 ("**Receivers**") execute this Agreement as joint and several
34 receivers and managers of the assets of the Company for
35 and on behalf of and as agents of the Company;

s. 6

- 1 (b) the Receivers are not liable in their personal capacity in
2 any way in connection with this Agreement or the
3 Principal Agreement, except to the extent any liability is
4 caused or contributed to by the recklessness, fraud, gross
5 negligence or wilful misconduct of any Receiver;
- 6 (c) to the maximum extent permitted by law, the State releases
7 and forever discharges the Receivers personally from any
8 liability under this Agreement or the Principal Agreement,
9 except to the extent any liability is caused or contributed to
10 by the recklessness, fraud, gross negligence or wilful
11 misconduct of any Receiver; and
- 12 (d) the limitations on the Receivers' liability under this
13 Agreement will continue notwithstanding the Receivers
14 ceasing to act as receivers and managers of the assets of
15 the Company or this Agreement being terminated or
16 amended.

17
18 **2. Variations of the Principal Agreement**

19 The Principal Agreement is varied as follows:

- 20 (1) in clause 1 by inserting in the appropriate alphabetical position the
21 following new definitions:
- 22 "Ewington Rail Infrastructure" means the rail spur and loop and
23 any associated infrastructure at Ewington constructed pursuant to
24 this Agreement;
- 25 "second variation date" means the date on which Clause 2 of the
26 variation agreement made on or about 30 May 2024 between the
27 Honourable Roger Cook, Premier of the State of Western
28 Australia, acting for and on behalf of the said State and its
29 instrumentalities from time to time and the Company comes into
30 operation;

- 1 (2) in clause 11A by inserting after subclause (3) the following new
2 subclauses:

3 **"Additional proposals for financial year ending 30 June 2026**

- 4 (4) The Company shall, not earlier than 1 April 2025 and not
5 later than 30 April 2025 (or such extended time as the
6 Minister may allow), submit detailed proposals under and
7 in accordance with Clause 10 for the financial year
8 ending 30 June 2026 for the exploration and development
9 of the coal resource contained in the Company's Coal
10 Mining Leases and as to such of the matters mentioned in
11 paragraphs (a) to (l) of subclause (1) of Clause 7 as the
12 Minister may require and such proposals shall be deemed
13 to meet the requirement of Clause 10 that the proposals
14 evidence a significant variation of the Company's
15 activities under this Agreement to a greater extent than
16 those specified in any approved proposals.

17 **Variation of approved proposals during their implementation**

- 18 (5) Notwithstanding Clause 33, the Minister may during the
19 implementation of approved proposals approve variations
20 to those proposals."

- 21 (3) in clause 17 by inserting after subclause (7) the following new
22 subclause:

23 **"Third Party Access to Ewington Rail Infrastructure**

- 24 (8) Subject to Clauses 36 and 37, the Company may, with the
25 prior consent of the Minister, enter into an agreement
26 with a third party providing for:
- 27 (a) access to the Ewington Rail Infrastructure for the
28 transport of goods (including goods other than
29 coal); and
- 30 (b) the connection of railway infrastructure owned or
31 operated by a third party to facilitate such access,
32 and the coal mining leases underlying the Ewington Rail
33 Infrastructure shall be deemed to authorise such access
34 and connection."

s. 6

- 1 (4) in clause 21 by:
- 2 (a) by deleting in subclause (2a) the word "The" and
- 3 substituting the following words:
- 4 "Subject to subclause (2b), the"; and
- 5 (b) inserting after subclause (2a) the following new subclause:
- 6 "(2b) The term of each coal mining lease, granted to
- 7 the Company pursuant to subclause (1) of this
- 8 Clause and subsisting immediately prior to the
- 9 second variation date, is deemed to continue
- 10 until 30 June 2026 subject to the sooner
- 11 determination of such term upon the cessation
- 12 or determination of this Agreement."; and
- 13 (5) in clause 49 by inserting after subclause (3) the following new
- 14 subclause:
- 15 "(4) The parties:
- 16 (a) acknowledge that on 1 May 2024 the Minister
- 17 extended the term of this Agreement pursuant to
- 18 subclause (3) of this Clause for a further period of
- 19 12 months expiring on 30 June 2025; and
- 20 (b) agree that on and from the second variation date
- 21 the term of this Agreement is deemed to be
- 22 extended for a further period of 12 months
- 23 expiring on 30 June 2026,
- 24 subject to the provisions of Clauses 36 and 37."

1 EXECUTED as a deed.

2

SIGNED by THE HONOURABLE)
ROGER COOK)
in the presence of:) [Signature]

[Signature]

Signature of witness

STEPHEN MICHAEL DAWSON
Name of witness (block letters)

EXECUTED for and on behalf of)
THE GRIFFIN COAL MINING)
COMPANY PTY LIMITED)
(RECEIVERS AND MANAGERS)
APPOINTED) (IN LIQUIDATION))
by its joint and several receiver and)
manager in the presence of:)

[Signature]) [Signature]
Signature of witness) Signature of receiver and
manager

LILY XU) SEAN HOLMES
Full name of witness (block letters)) Name of receiver and manager
(block letters)

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