

KING ISLAND PORT FACILITIES AGREEMENT.**No. 21 of 1971.**

AN ACT to approve an agreement relating to the construction, maintenance, and use of certain port facilities at Little Grassy Bay, King Island, and to provide for the carrying of that agreement into effect and for matters incidental thereto.

[29 April 1971.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

Short title.

1 This Act may be cited as the *King Island Port Facilities Agreement Act 1971*.

Interpretation.

2 In this Act, unless the contrary intention appears—

“agreement” means the agreement a copy of which is set forth in the schedule;

“board” means the Marine Board of King Island;

“Commissioner” means the Commissioner of Crown Lands;

“company” means King Island Scheelite Ltd, a company incorporated in the State of Victoria and having its registered office in that State situated at Number 100 Collins Street in the city of Melbourne;

“lease” means the lease set forth in the schedule to the agreement;

“works” means the works and installations referred to in clause 2 of the agreement.

Approval of agreement.

3—(1) The agreement is approved.

(2) Notwithstanding any other law, the agreement, and the lease when granted, have effect as if the provisions thereof were expressly enacted in this Act.

Power to carry out agreement and lease.

4—(1) The Treasurer and the board respectively may do all such acts and things as may be required or necessary for carrying out and giving effect, on the part of the State and of the board, to the agreement and the lease or for the exercise and performance of the powers, discretions, authorities, and obligations conferred or imposed on them respectively under the agreement and the lease.

(2) Without affecting the generality of subsection (1) of this section, the powers conferred on the Treasurer by that subsection include the power, notwithstanding anything in the *Crown Lands Act* 1935, to demise lands of the Crown to the Board for the purpose of the agreement and of the lease.

5 All rights of passage over—

(a) the reserved road of a width of one chain that lies within the boundaries of the land comprised in Certificate of Title Registered Volume 2304, Folio 45; and

(b) all other roads running between the township of Grassy and the site of the works (being roads in existence at the commencement of this Act),

are, by force of this section, extinguished.

Extinguish-
ment of
certain
rights of way.

6 The Commissioner may, notwithstanding anything in the *Crown Lands Act* 1935, sell the land comprised within the road referred to in paragraph (a) of section five to the company for a nominal consideration, together with the prescribed grant fee and survey fees (if any).

Sale of
certain land
to the
company.

7—(1) The Treasurer may, for the purposes of the provisions of sub-clause (B) of clause 2, sub-clauses (a), (b), and (j) of clause 4, and clauses 5, 6, 7, and 15 of the agreement make, out of such moneys as may be available in the Loan Fund for those purposes, such payments as are referred to in those provisions.

Financial
provisions.

(2) The Treasurer may, for the purposes of the provisions of clauses 11 and 12 of the agreement, and of paragraph (g) of clause 2 and paragraphs (c) and (d) of clause 4 of the lease, make, out of such moneys as may be available in the Consolidated Revenue for those purposes, such payments as are referred to in those provisions.

(3) The Treasurer may, for the purposes of paragraph (d) of clause 4 of the lease, make to the board, out of such moneys as are available in the Consolidated Revenue for those purposes, such advances as the Treasurer thinks fit.

(4) An advance under subsection (3) of this section shall be made on such terms and conditions as the Treasurer may think reasonable.

THE SCHEDULE

(Sections 2, 3(1), 4, 7.)

AN AGREEMENT made the 19th day of March, One thousand Nine hundred and Seventy one BETWEEN THE HONOURABLE WALTER ANGUS BETHUNE M.H.A. Premier and Treasurer (hereinafter called "the Minister" which expression shall include his successors in office) on behalf of the State of Tasmania of the first part KING ISLAND SCHEELITE LTD. a Company incorporated in the State of Victoria and having its registered office at No. 100 Collins Street, Melbourne, in that State and registered in Tasmania as a foreign Company (hereinafter called "the Company") of the second part THE MARINE BOARD OF KING ISLAND constituted under the Marine Act 1921 (hereinafter called "the Board") of the third part and PEKO-WALLSEND LIMITED a Company incorporated in the State of New

South Wales and having its registered office at No. 47 Macquarie Street, Sydney in that State (hereinafter called "the Parent Company") of the fourth part WHEREAS the Company being a subsidiary of the Parent Company operates a scheelite mine at Grassy King Island in Tasmania AND WHEREAS it is necessary to improve the sea-port facilities on the Island AND WHEREAS it has been agreed that the Company will undertake the development of a sea-port at Little Grassy Bay on the Island and that the Government of Tasmania will meet the major part of the cost of the works upon the Parent Company agreeing to guarantee the due performance by the Company of its obligations under this Agreement AND WHEREAS it has been further agreed that following completion of the works the Minister will lease to the Board the lands comprising the sea-port and the Board will thereupon administer that port in all respects NOW THIS AGREEMENT WITNESSETH as follows:—

1. The Minister shall as soon as convenient introduce in the Parliament of Tasmania a Bill containing provisions substantially to the following effect:—
 - (a) That this Agreement shall by the Ratifying Act be approved.
 - (b) That this Agreement and the Lease to be granted to the Board pursuant to the provisions of the Agreement shall have the force and effect of law and shall take effect as though the same had been repeated in and expressly enacted in the Ratifying Act.
 - (c) That the Minister and the Board respectively may do all such acts and things as may be required or necessary for carrying out and giving effect to this Agreement and the Lease or for the exercise and performance of the powers discretions authorities and obligations conferred or imposed on them respectively under this Agreement and the Lease.

2. (A) The Company will construct and equip in accordance with the reports concept drawings plans drawings specifications general conditions of contract and engineering and other documents prepared by Maunsell and Partners at the request of the Company and approved by the Director of Public Works (hereinafter called "the Director") a sea-port at Little Grassy Bay aforesaid comprising:—
 - (a) a main breakwater
 - (b) construction roads for the sea-port
 - (c) an inner breakwater and allied reclamation for port area including sealing
 - (d) a wharf
 - (e) a stern-loading ramp
 - (f) a new 20 ton electric derrick crane
 - (g) shore installations comprising:—
 - (i) transit shed
 - (ii) office and amenities building
 - (iii) water supply and reticulation
 - (iv) drainage of reclamation
 - (v) power supply and reticulation
 - (vi) lighting of wharf stern-loading ramp port area transit shed and office and amenities building
 - (vii) navigational aids
 - (viii) septic sewerage system
 - (ix) mobile fire pump
 - (h) ancillary works comprising:—
 - (i) concrete paved cattle pens including shelter sheds troughs fences and drainage
 - (ii) holding paddocks for livestock
 - (iii) cattle-loading ramp
 - (iv) fixed and demountable races between holding paddocks and pens and pens and ramp
 - (v) security fencing and gates for port area

(vi) preparation of areas for workshops agents and storage of explosives including paving of access and provision of services but not buildings or equipment.

(B) For the purposes of this Agreement the Company and the Minister shall jointly select and appoint an assessor (hereinafter called "the Assessor") to rule on the stability of the main breakwater to issue or withhold certificates of acceptance based on criteria agreed between the Company and the Minister and to determine whether the sea-port attains the acceptable degree of usability agreed to by the Company and the Minister and approve any remedial works required to improve the usability of the sea-port. The Minister and the Company shall each meet one half of the costs and expenses of the Assessor.

3. The sea-port shall be designed and constructed in a workmanlike manner so that on completion:—

- (i) the main breakwater shall have attained a degree of stability sufficient to be fully resistant to attack by storms with wave heights of from 20 to 25 feet.
- (ii) it shall satisfactorily accommodate a vessel of a dead weight of approximately 900 tons and will include such facilities plant and equipment as shall be reasonably necessary for its proper working including the efficient loading and unloading of such a vessel. Such facilities, plant and equipment shall be suitable for the proper working of either a conventional vessel or a stern-loading roll-off vessel.
- (iii) it shall have the degree of usability agreed to between the Company and the Minister.
- (iv) there will be outside the entrance to the inner harbour a turning circle of 1,000 feet in diameter with a least depth of 30 feet leading to the site for a future berth immediately alongside the main breakwater and under the lee of Grassy Island and it will permit the construction and working of a permanent berth for a vessel of 4,000 tons dead weight if required at some future time provided that the Company shall be under no obligation to design or construct such a permanent berth.
- (v) it will permit the installation of all necessary facilities to enable an oil tanker of up to 600 feet in length and at anchor outside the sea-port to discharge oil through a floating pipeline into onshore bulk storage tanks should such tanks be erected.

4. (a) The Company will construct to an initial shape the main breakwater mound from the south side of Jetty Point on the said Island to Grassy Island in general accordance with the initial construction profile and concept as shown in the reports and concept drawings referred to in clause 2(A) of this Agreement and all construction roads required for the whole of the works within a period of one and one-half years from the date of this Agreement.

Following construction of the initial mound of the main breakwater and the construction roads the Minister will upon issue of a certificate (hereinafter called "the preliminary certificate") by the Assessor that the initial mound of the main breakwater can be developed to attain the required degree of stability if subsequently suitably shaped and armoured pay to the Company the sum of \$383,000 upon the Company providing a suitable Bank guarantee approved by the Minister under which the Bank will pay to the Minister the sum of \$100,000 should the provisional certificate hereinafter provided for not be issued within the period of three and one-half years referred to in sub-clause (b) of this clause or within such later period as the Minister determines.

(b) Following the issue of the preliminary certificate and within a period of three and one-half years thereafter the Company will:—

- (1) (i) complete the inner breakwater and allied reclamation
- (ii) complete the wharf and stern-loading ramp
- (iii) complete all the shore installations and ancillary works specified in clause 2 of this Agreement
- (iv) install the crane

The Minister will pay to the Company the various sums hereunder written by way or progress payments on certificates of the Director upon work being done to his satisfaction such progress payments at any time not to exceed 95% of the amount certified to be the value of the work done up to the date of any particular payment so long as the contracts entered into by the Company for the works accord with the Australian Standard C.A.24.1.1964 and in respect of the crane Australian Standard C.B.16.1957 and the final payment as to each item of the works hereunder specified to be paid on the like certificate as to its satisfactory completion provided that the amounts specified under the sub-heading "Port and Facilities" shall be subject to adjustment as agreed between the Minister and the Company should the Ratifying Bill not be passed by the Parliament of Tasmania on or before the 30th day of April 1971.

PORT AND FACILITIES

Design, engineering, supervision and administration for construction of the port and facilities	\$76,000.00
Inner breakwater and reclamation	\$145,000.00
Wharf and stern-loading ramp	\$460,000.00
Shore Installations	\$110,000.00
Ancillary Works	\$150,000.00

- (2) complete all works necessary to shape and armour the main breakwater. Upon the completion of those works the Minister will pay to the Company the sum of \$200,000.00 provided that in respect of this payment:—
- (i) a certificate (hereinafter called "the provisional certificate") is issued by the Assessor that the main breakwater is progressing satisfactorily towards or has attained the required degree of stability under wave attack; and
 - (ii) the Company provides a suitable Bank guarantee approved by the Minister under which the Bank will pay to the Minister the sum of \$100,000.00 should the final certificate of acceptance hereinafter provided for not be issued within the period of five years referred to in sub-clause (c) of this clause or within such later period as the Minister determines.
- (c) Following the issue of the provisional certificate and within a period of five years thereafter the Company shall at its expense carry out any future works and maintenance on the main breakwater necessary to attain the required degree of stability under wave attack. Upon the Assessor being satisfied that the main breakwater has attained a degree of stability sufficient to be fully resistant to attack by storms with wave heights of from 20 to 25 feet he shall issue a certificate (hereinafter called "the final certificate").
- (d) Following the issue of the final certificate the Company will for the next following period of five years maintain the main breakwater and other rock works of the sea-port to the satisfaction of the Director and for this purpose will:—
- (i) at all times keep in the immediate vicinity of the sea-port a stock pile of over burden and waste rock of such size and quantity as shall be reasonably determined by the Director having regard to the normal mining operations of the Company
 - (ii) at all times keep available in the immediate vicinity of the sea-port the necessary equipment to load haul and handle that over burden and waste rock
 - (iii) supply the said over burden and waste rock as and where required by the Director to maintain the main breakwater and other rock works at a price to be paid by the Board of forty cents per cubic yard truck measurement dumped on site by means of off-highway vehicles.
 - (iv) place by means of its bulldozer the said over burden and waste rock at such points on the main breakwater and other rock works as required by the Director the Board paying to the Company the standard hire rates of the Company for such bulldozing.
- (e) Following the expiration of the said period of five years referred to in paragraph (d) of this clause and during the whole of the economic life of the ore reserve of the said scheelite mine on the Island the

Company will comply with the provisions of subclause (d)(i)(ii) (iii) and (iv) provided that the price to be paid by the Board under subclause (d)(iii) will be that agreed upon from time to time by the Company the Minister and the Board.

- (f) The payments to be made by the Board to the Company shall be based upon certificates issued by the Director as to quantities of over burden and waste rock supplied and as to hours engaged in bulldozing the same on the breakwater and other rock works such certificates to be issued by the Director in accordance with the general practice under the standard conditions of contract of the Public Works Department of the State of Tasmania and all payments made by the Board to the Company pursuant to those certificates shall be made within thirty days of demand.
- (g) Should the Company fail to comply with the provisions of sub-clauses (d) and (e) of this clause the Director shall be at liberty to take without payment over burden and waste rock from the Company's stockpile and to use free of charge the Company's equipment upon the Director being responsible for its operations and maintenance for the purposes of carrying out the obligations of the Company in which event the Board will pay to the Director the cost of the work in accordance with the provisions of sub-clauses (d)(iii) and (iv), (e) and (f) provided that the Company will on demand pay to the Director any excess of cost to the Director over and above the charges payable by the Board hereunder.
- (h) (i) The Company shall insure against any legal liability whatsoever whether arising at common law or by virtue of any statute relating to workers' compensation or employers' liability to any person employed by the Company in or about the execution of the works and shall procure that any sub-contractor shall be insured against any such liability in the case of the employees of such sub-contractor.
- (ii) The Company shall in the joint names of the Company and the Minister insure in so far as they are capable of being so insured the works and materials goods and plant and equipment in and upon the site of the sea-port and all structures buildings and installations with an insurer approved by the Minister in the full insurable value thereof against all risk from fire storms or tempest and shall at all times keep such insurance on foot until the completion of the works set out in sub-clause (b)(i) of this clause to the satisfaction of the Minister and shall pay all premiums becoming due thereon. All moneys paid under such insurance shall be applied to the immediate replacing rebuilding or repairing to the satisfaction of the Minister of the works materials goods plant equipment structures buildings and installations which have been damaged or destroyed the Company to meet the difference if any required for such replacing rebuilding or repairs.
- (i) Should the normal mining operations of the said scheelite mine on the Island cease or be substantially reduced during the next ensuing period of ten years from the date of the provisional certificate resulting in a cessation or substantial reduction of the products from the mine being shipped from the Island the Company shall by way of compensation make payments to the Minister on demand in respect of each year of the then unexpired period of ten years calculated as follows:—
- Where the ore treated at the mine in any year within the said period of ten years commencing on 1 January and ending on 31 December (both dates inclusive)
- | | |
|---|------------------------|
| exceeds 200,000 tons but does not exceed 250,000 tons | the sum of \$3,000.00 |
| exceeds 150,000 tons but does not exceed 200,000 tons | the sum of \$6,000.00 |
| exceeds 100,000 tons but does not exceed 150,000 tons | the sum of \$9,000.00 |
| exceeds 50,000 tons but does not exceed 100,000 tons | the sum of \$12,000.00 |
| does not exceed 50,000 tons | the sum of \$25,000.00 |

PROVIDED HOWEVER THAT in the event that the cessation of substantial reduction of normal mining operations is due to a cause beyond the Company's control, such as, but not limited to, acts of God, strikes, lockouts, or other industrial disturbances, war, civil disturbances, unavoidable accidents, fire, flood, explosion and laws, rules and regulations or orders of any duly constituted governmental authority then such payments shall not be payable by the Company in respect of the year during the continuation of the intervention of such force majeure event. The Company shall take all reasonable steps to eliminate the intervening event and shall resume normal mining operations as promptly as is practicable provided however nothing herein shall require the Company to settle or adjust any labour dispute on terms contrary to its wishes or to question or to test the validity of any State or Commonwealth law, regulation or order.

- (j) Any dispute or difference which may arise between the parties hereto touching the provisions of this clause or arising therefrom shall be determined by arbitration in accordance with the provisions of the Arbitration Act 1892 of the State of Tasmania.
5. Should the Assessor determine that the sea-port does not attain the acceptable degree of usability agreed between the Company and the Minister the Company shall carry out investigations and prepare plans, specifications and estimates of cost for works designed to effect improvements in the usability of the port. Subject to approval of the plans, specifications and estimates by the Assessor and the Director, the Company shall carry out such works in accordance with the approved plans and specifications and the actual cost of such works including the engineering costs shall be shared equally between the Company and the Minister provided that the cost to the Minister and the Company shall not exceed \$100,000 each and in the event the Assessor considers such amount shall not be sufficient to carry out the necessary improvements, then the Minister and the Company shall confer as to whether any additional expenditure shall be met and such additional expenditure shall only be met after the Minister and the Company have mutually agreed to do so.
 6. The Company shall by way of gift transfer to the Crown sufficient lands required by the Minister for the sea-port, holding paddocks for livestock and road access from the sea-port to connect with the island roadway system reserving to the Company all its mining rights in respect of those lands and the Minister paying the survey costs and fees relating to the transfer to the Crown provided that if the Company should wish to mine underneath the road access it shall be at liberty so to do upon the Company at its own cost constructing to a similar standard such alternative access road as the Director shall approve.
 7. The Minister will at the cost of the State of Tasmania cause a main access road to be constructed to connect the sea-port with the island roadway system in the Grassy area and will use his best endeavours so that completion of such main access road will coincide with the date upon which the Minister determines that the sea-port is ready to permit commercial operations on a regular basis provided in any event such completion shall be no later than the expiration of the period referred to in clause 4 (b) of this Agreement.

The Minister shall approach the Parliament of the State of Tasmania for the public rights over and along the existing roadways between Grassy Township and the sea-port including the reserved road one chain wide lying within the boundaries of the area of 351 acres 3 roods 15 3/10 perches comprised in Certificate of Title Registered Volume 2304 Folio 45 to be extinguished and to authorise the transfer to the Company the fee simple of that reserved road for a nominal consideration.

8. The Company shall provide all necessary power and water other than salt water for the proper working of the sea-port and the Board will pay for the electric power and water consumed at rates equivalent to unit costs of production including both overhead and administration costs and based upon a formula to be determined by the Company and the Minister provided always the Company shall not be required to ensure that the water supplied is necessarily fit for human consumption and the quantities supplied shall not exceed the Company's resources from time to time.

9. The Company when required by the Minister and in such locations being close to or adjoining Grassy Township as the Minister approves shall expose for sale with electric power and water available not less than thirty blocks for housing purposes for the provision of services and for general business activities the reserve price in each case not to be higher than that determined by the Senior Valuer for the State of Tasmania.
10. From the date of this Agreement the Company at all times will be permitted to use Little Grassy Bay for such shipping purposes as the Board may approve upon the Company paying to the Board all harbour dues wharfage storage and other approved charges equivalent to those which would be payable to the Board by the Company and its shippers if such shipping took place at the Port of Currie on the Island or at such other port on the Island as the Minister may determine provided that if any difference should arise between the Company and the Board as to the use of Little Grassy Bay for shipping purposes such difference shall be referred to the Minister whose decision shall be final.
11. From the date that the Minister determines that the sea-port is ready to permit commercial operations on a regular basis the Board will operate and administer the sea-port on behalf of the Minister upon such terms and conditions as the Minister shall then notify to the Board whereupon the Board shall be entitled to charge harbour dues wharfage storage and other approved charges for its use and the Company subject to the provisions of Clause 10 of this Agreement shall use the sea-port exclusively for the unloading and loading of all its cargo including the products from the said scheelite mine on the Island paying to the Board the wharfage storage and other approved charges fixed by the Board provided that:—
 - (i) the Minister shall not make his determination earlier than the issue of the preliminary certificate and the completion of the works set out in clause 4(b)(i) of this Agreement
 - (ii) should the Company dispute the wharfage storage and other approved charges fixed by the Board as being unreasonable the dispute shall be referred to a Committee of three persons nominated by the Minister and the Company and appointed by the Governor and the decision of that Committee shall be final. The expenses and remuneration of the members of the Committee shall be determined by the Governor on the recommendation of the Minister and shall be met from Consolidated Revenue.
12. Upon the issue of the provisional certificate and upon the satisfactory completion of the works referred to in clause 4(b) of this Agreement under the sub-heading "Port and Facilities" the Minister will lease to the Board the lands and hereditaments comprising the sea-port which lease shall be substantially in the form of the Indenture of Lease set out in the schedule hereto at an annual rental being not less than 9.4392% of the capital cost to the Minister of the sea-port and associated facilities, based upon amortization of a loan at an interest rate of seven per centum per annum by way of twenty equated instalments of principal and interest and thereupon the Board shall assume administration of the sea-port in all respects and shall be entitled on its own behalf to charge harbour dues wharfage storage and other approved charges for its use and the Company subject to the provisions of clause 10 of this Agreement shall continue to use the sea-port exclusively for the unloading and loading of all its cargo including the products from the said scheelite mine on the Island paying to the Board the wharfage storage and other approved charges fixed by the Board provided that if the Company disputes such wharfage storage and other approved charges such dispute shall be determined by the Committee referred to in clause 11(ii) of this Agreement and the provisions of that sub-clause shall apply in all respects.
13. Upon the commencement of the lease referred to in clause 12 of this Agreement the Board shall purchase from the Company the crane referred to in clause 2(A) of this Agreement for the sum of \$110,000 free of interest to be paid by twenty equal half yearly instalments the first of which shall be paid six months after the date of such purchase and thereafter each six months and the Company will provide for use by the Board without charge such further plant and equipment necessary in the sea-port as approved by the Minister to handle the Company's cargo and freight provided that the Board will at its own cost maintain

in proper working order at all times that plant and equipment provided further that should the normal mining operations of the said scheelite mine on the Island cease or be reduced below a rate of 150,000 tons of ore treated in any year commencing on 1 January and ending on 31 December (both dates inclusive) prior to the expiration of 10 years from the date of payment by the Board of the first half yearly instalment then the payments falling due in that year shall be suspended until the resumption of such operations provided that if the Company does not resume those operations within a period of five years from the end of the year in which operations ceased or fell below the said rate of 150,000 tons all payments then outstanding from the Board or thereafter payable by the Board to the Company shall be forfeited absolutely.

14. Upon the Minister determining that the sea-port is ready to permit commercial operations on a regular basis the Company shall if requested by the Minister lend to R.H. Houfe and Co. Proprietary Limited an amount not exceeding \$300,000 to assist with the construction or purchase of a suitable vessel of approximately 900 tons dead weight to provide a regular shipping service to King Island.
15. Should the Company be required to pay sales tax on any item of plant equipment or materials comprising or forming part of or used in the works to be carried out by the Company under clause 2 of this Agreement the Minister will pay to the Company the amounts so paid by the Company in addition to the payments to be made by the Minister to the Company under clauses 4(a) and (b) and 5 of this Agreement.
16. The Minister and the Board shall permit the installation in the future of bulk oil storage tanks on the lands within the sea-port and all necessary works for that purpose and to enable those tanks to be filled from an oil tanker at anchor outside the sea-port provided that the plans, specifications and details relating to such installation and other works are first approved by the Minister and the Board.
17. In consideration of the Minister entering into this Agreement the Parent Company hereby guarantees the due performance and compliance by the Company of and with all agreements and obligations on its part to be performed and observed.
18. The proper law of the Contract contained in this Agreement shall be deemed to be the law of the State of Tasmania and the Agreement shall be governed by and interpreted in accordance with the laws of that State.
19. If this Agreement is not ratified and approved by Parliament within one and one-half years from the date of this Agreement then it shall cease to operate and none of the parties hereto shall have any claim against the other or others of them with respect to any matter or thing arising out of done or performed or omitted to be done or performed hereunder.

IN WITNESS whereof this Agreement has been duly executed the day and year first hereinbefore written.

THE SCHEDULE HEREINBEFORE REFERRED TO

THIS INDENTURE made the _____ day of _____ One thousand Nine hundred and Seventy one BETWEEN THE HONOURABLE WALTER ANGUS BETHUNE M.H.A. Premier and Treasurer (hereinafter called "the Minister" which expression shall include his successors in office) on behalf of the State of Tasmania of the one part and THE MARINE BOARD OF KING ISLAND constituted under the Marine Act 1921 (hereinafter called "the Board") of the other part WHEREAS pursuant to an Agreement made the _____ day of _____ 1971 between the Minister of the first part King Island Scheelite Ltd. of the second part the Board of the third part and Peko-Wallsend Limited of the fourth part a sea-port has been constructed at Little Grassy Bay King Island in Tasmania and certain lands forming an integral part of that sea-port have been transferred by King Island Scheelite Ltd. to the Crown AND WHEREAS the Board has assumed responsibility for the operation of the sea-port AND WHEREAS the Agreement provided that such lands would be leased to the Board by the Minister as therein provided NOW THIS INDENTURE WITNESSETH as follows:—

1. The Minister hereby demises unto the Board the lands described in the Schedule hereto (hereinafter called "the demised premises") for the term of 20 years from the _____ day of _____ 17 yielding and

paying therefor during the said term by way of rental the sum of to the 31st day of December 19 and thereafter the sum of on the 31st day of December each year in arrear provided that the said rental shall be reviewed from time to time by the Minister having regard to the financial position and commitments of the Board.

2. The Board to the intent that its obligations will continue throughout the term hereby created hereby covenants with the Minister as follows:—
- (a) to pay the rent hereby reserved at the times and in the manner aforesaid;
 - (b) to pay bear and discharge all existing and future rates taxes assessments duties impositions and outgoings whatsoever imposed or charged upon the demised premises or upon the owner or occupier thereof or payable by either in respect thereof;
 - (c) to keep and maintain the demised premises and in particular the breakwaters, wharf, stern-loading ramp, crane, buildings and other shore installations, roads, plant, and equipment and other buildings or structures which may be erected (all of which are hereinafter referred to as "the port facilities") in good and tenable repair and condition to the satisfaction of the Minister subject to fair wear and tear and will at all times manage conduct and operate the sea-port to his satisfaction provided that all proposed maintenance works not of a minor nature shall first be referred to the Director of Public Works for the State of Tasmania (hereinafter called "the Director") who shall be entitled to arrange for such works or any of them to be carried out at the Board's expense the Board paying the Director when demanded all costs or expenses so incurred by the Director;
 - (d) to insure and keep insured in the Tasmanian Government Insurance Office in the joint names of the Board and the Minister such of the port facilities as are of an insurable nature against loss or damage by fire in the full insurable value thereof and to pay all premiums in respect thereof within 7 days after the same have become due and to produce to the Minister on demand the policy of such insurance and the receipts for the current years premium and to cause all moneys received by virtue of any such insurance to be laid out forthwith under the direction of the Director in rebuilding and reinstating the port facilities and to make up any deficiency out of its own moneys provided however that the Director shall be entitled to arrange for such works to be carried out to such extent and in such manner as he shall determine and provided further that if the Board shall at any time fail to keep insured the said port facilities as aforesaid the Minister may do all things necessary to effect or maintain such insurance and any moneys expended by him for that purpose shall be repayable by the Board and recoverable by action forthwith;
 - (e) not to assign sub-let or part with possession of the demised premises or any part thereof without the consent of the Minister in writing first had and obtained;
 - (f) not to erect or cause to be erected on the demised premises any buildings or structures of any kind and not to make any alterations to the present port facilities or structures except in accordance with plans and specifications which have been submitted to and approved by the Minister and under such conditions as the Minister may determine;
 - (g) to permit the Minister his officers and servants with or without workmen and others at all reasonable times to enter upon the demised premises and view the condition of the port facilities and to execute forthwith under the direction of the Director all repairs, renovations and works required to be done by written notice given by the Director provided always that if the Board shall not within 14 days after service of such notice commence and proceed diligently with the execution of the repairs and works mentioned in such notice it shall be lawful for the Director and all persons authorised by him to enter upon the demised premises and execute such repairs and works and the cost thereof shall be a debt due from the Board to the Minister and be forthwith recoverable by action;
 - (h) to operate the sea-port in a proper and workman-like manner and to observe at all times the requirements of any statute or local regulation or by-law relating to the demised premises and not to constitute a

nuisance to the occupiers of neighbouring property nor to carry on or permit to be carried on upon the demised premises any trade of a noxious or offensive nature but to use the same only for the loading, unloading, storing, dispatching or distributing of goods and materials;

- (i) to furnish each year as soon as practicable and not later than the 30th day of September in that year a copy of the audited accounts of the Board relating to its operations on King Island in the Ports of Currie, Naracoopa and Little Grassy Bay or such other financial details statements and reports as the Minister may determine and in such form as he may direct.

3. The Minister hereby covenants with the Board that:—

- (a) the Board punctually paying the rent hereby reserved and performing and observing the several covenants, conditions and stipulations herein contained and on its part to be performed and observed may quietly and peaceably hold, occupy and enjoy the demised premises together with the port facilities and every part thereof during the continuance of the said term without lawful interruption by the Minister or by any person claiming through or under him;
- (b) that the Minister will on the written request of the Board made not less than six months prior to the expiration of the term hereby created grant to the Board a lease of the demised premises for a further term of twenty years from the expiration of the term hereby created at a rental to be determined by the Minister but otherwise upon like terms and conditions to those herein contained with the exception of this present covenant for renewal.

4. Provided always and it is hereby expressly agreed by and between the parties hereto as follows:—

- (a) that this agreement is upon the express condition that if the rent hereby reserved or any part thereof is in arrears or unpaid for the space of one calendar month after the date whereon the same ought to have been paid (whether any legal or formal demand therefore may have been made or not) or if the Board shall not in all things well and truly observe and perform all the covenants, conditions and stipulations herein contained and on its part to be observed and performed then the covenant for quiet enjoyment hereinbefore contained shall cease and be void and the said term shall absolutely cease and determine notwithstanding anything to the contrary hereinbefore contained but without prejudice to any right of action or other remedy on the part of the Minister in respect of any arrears of rent or breach of any of the covenants by the Board hereinbefore contained occurring prior to the date of such forfeiture;
- (b) that no compensation shall be payable by the Minister to the Board on the expiration or sooner determination of the said term or in respect of any improvements effected on the demised premises;
- (c) if during the said term the port facilities or any essential part thereof are destroyed or suffer serious damage in consequence of fire storm or inevitable accident then the rent hereby reserved or a fair and just proportion thereof according to the nature and extent of the damage sustained shall be suspended and cease to be payable until the port facilities or the part thereof destroyed or damaged is reconstructed or repaired by the Minister provided that if the Minister fails to carry out such reconstruction or repairs as soon as he is reasonably able to do so the Board may determine the lease hereby granted upon written notice to the Minister but such determination shall be without prejudice to any claim by either party against the other in respect of any antecedent breach of their respective obligations hereunder. Any dispute arising out of this clause shall be determined by arbitration in the manner provided by the Arbitration Act 1892;
- (d) should in any year the annual rental herein provided together with all other expenditure necessarily incurred by the Board in the discharge of its normal and usual obligations on King Island exceed its revenue and income from all sources for that year the Minister upon application in writing from the Board and being satisfied that the Board needs financial assistance to carry on its operations will seek Parliamentary Authority for the grant of such financial assistance.

IN WITNESS whereof the parties hereto have duly executed these presents the day and year first hereinbefore written.

SCHEDULE

ALL THAT area of land situate at Grassy King Island delineated by red lines on Plan No. _____ in the office of the Surveyor-General and Secretary for Lands at Hobart in Tasmania.

SIGNED SEALED and DELIVERED by THE HONOURABLE WALTER ANGUS BETHUNE in the presence of:—

THE COMMON SEAL of the MARINE BOARD OF KING ISLAND was hereunto affixed in the presence of:—

SIGNED by THE HONOURABLE WALTER ANGUS BETHUNE in the presence of:— K.J. Binns	} W.A. Bethune	
THE COMMON SEAL of KING ISLAND SCHEELITE LTD. was hereunto affixed by authority of the Director in the presence of:— B.C.M. Bigelow A/Secretary	} John S. Proud Director	L.S.
	} R.E. White Director	
THE COMMON SEAL of the MARINE BOARD OF KING ISLAND was hereunto affixed in the presence of:— H.M. George Secretary	} T.S.B. Bayes Warden	L.S.
	} A.V. Knight Warden	
THE COMMON SEAL of PEKO-WALLSEND LIMITED was hereunto affixed by authority of the Directors in the presence of:— J.M. Ireland, Secretary	} John S. Proud Director	L.S.
	} R.E. White Director	

PUBLIC BODIES ASSISTANCE.

No. 22 of 1971.

AN ACT to make provision for the giving of financial assistance to municipalities and certain other public bodies providing, extending, or altering facilities for the carrying on of activities of value to the community, to amend the *Local Government Act 1962*, and to restrict the further operation of the *Elderly Citizens' Clubs and Youth Centres Act 1966*. [29 April 1971.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as the *Public Bodies Assistance Act* Short title. 1971.