

## Newcastle Mines Grouting Fund Contribution Deed: Summary of Key Terms

### Key Defined Terms to understand

**NMGF Approved Costs** means the cost of grouting works that are covered by the Fund and listed in Item 4 of **Schedule Two**. This defined term refers to the categories of mine subsidence costs that are contributed to by the fund, such as, grout sampling and testing, grout hole drilling and supply and injection of infill grout (amongst others). NMGF Approved Costs do not include the excluded items listed in Item 4 of **Schedule Two**, such as, preliminaries and establishment costs, utility clearance, site fencing and traffic management (amongst others).

**Actual NMGF Approved Costs** means the actual NMGF Approved Costs incurred by the Applicant in undertaking the Grouting Works and calculated in accordance with the NMGF Schedule of Prices. This defined term incorporates the concept of NMGF Approved Costs but is only capturing the actual costs incurred by the Applicant of the type that are contributed to by the Fund.

**Capped NMGF Approved Costs** means the Actual NMGF Approved Costs of grouting works to be borne by the Applicant based on the capped rate per m<sup>2</sup> for the Project Site as detailed in the Newcastle Mines Grouting Fund Operational Area Map Revision Date February 2023 (as varied from time to time) and listed in Item 3 of **Schedule Two**. This defined term is referring to the capped amount of NMGF Approved Costs that the applicant must bear on its own account before the Fund supplements the costs.

**Estimated NMGF Approved Costs** means the estimated upper limit of NMGF Approved Costs based on the Approved Grouting Plan and the NMGF Schedule of Prices and set out in Item 5 of **Schedule Two**. This defined term refers to the estimated NMGF Approved Costs that the Applicant provides to HCCDC before the Grouting Works are undertaken and recorded in the Schedule. This allows HCCDC to budget for the Contribution Amount out of the Fund until the applicant notifies HCCDC under clause 2.6 that the Estimated NMGF Approved Costs may be exceeded.

**Contribution Amount** means the amount of the Actual NMGF Approved Costs that exceeds the Capped NMGF Approved Costs. This is the amount payable by HCCDC from the Fund.

Note, capitalised terms in this summary refer to defined terms in the NMGF Contribution Deed.

### HCCDC's obligation to pay the Contribution Amount

Under the Deed:

- the Applicant is required to pay the Capped NMGF Approved Costs along with all other costs that do not fall into the category of NMGF Approved Costs; and
- HCCDC is required to pay the Contribution Amount; and
- HCCDC is not required to pay any amount in respect of Non-Compliant Works [see definition in clause 3.6].

In order for the Applicant to qualify for the Contribution Amount it must submit an Application to HCCDC and satisfy the Application Criteria [see clause 2.1 and 2.2]. The Application Criteria is defined in clause 1.1.

The Application will nominate the Estimated NMGF Approved Costs. This will allow HCCDC to budget for this amount in the Fund. If the Applicant becomes aware that the likely Actual NMGF Approved Costs may exceed the Estimated NMGF Approved Costs, it must immediately notify HCCDC and explain the reasons why the likely Actual NMGF Approved Costs may exceed the Estimated NMGF Approved Costs [clause 2.6].

If the Applicant does not comply with clause 2.6, HCCDC has the absolute discretion not to pay any part of the Contribution Amount that exceeds the Estimated NMGF Approved Costs [clause 2.6].

To allow the Fund to prudently manage its cash reserve, HCCDC must be notified as soon as the Applicant becomes aware that the Estimated NMGF Approved Costs might be exceeded.

If the Applicant makes the required notification that the Estimated NMGF Approved Costs is likely to be exceeded in accordance with clause 2.6 then the Applicant is entitled to be paid the Contribution Amount even if this is higher than the Estimated NMGF Approved Costs as long as it is calculated in accordance with the NMGF Schedule of Prices.

Prior to the Applicant getting paid the Contribution Amount, the Applicant must provide HCCDC with the information in clause 3.1. This includes the following:

- evidence of the Actual NMGF Approved Costs of the Grouting Works in a form, and with particulars, required by HCCDC;
- confirmation that the Applicant has provided the [clause 2.6] notice if the Actual NMGF Approved Costs exceed the Estimated NMGF Approved Costs;
- the total Contribution Amount claimed;
- a copy of SANSW's correspondence confirming endorsement of the Validation Report;
- a copy of the Validation Report endorsed by SANSW showing that the Grouting Works have been satisfactorily completed;
- details of any part of the Grouting Works that were not successfully completed or that needed to be redone and the cost of any reworks;
- a properly completed and signed Subcontractor's Statement confirming subcontractors have been paid.

Clause 3.2 sets out when HCCDC will consider a claim for a Contribution Amount to be valid. In summary the claim will be valid if:

- the Applicant has complied with the Deed;
- the claim for the Contribution Amount only comprises the categories of NMGF Approved Costs and no other costs;
- the claim for the Contribution Amount does not include any costs associated with Non-Compliant Works;
- the Applicant has provided the information and documents in clause 3.1 as required; and

- the Applicant has properly substantiated the Contribution Amount claimed in a manner satisfactory to HCCDC.

### **Monitoring of the Works**

HCCDC may monitor the works for probity reasons [see clauses 2.7 and 2.8].

### **Sunset Date**

The Applicant must complete the Grouting Works by the Grouting Sunset Date. HCCDC will not be liable for payment of the Contribution Amount unless the Grouting Works are completed by the Grouting Sunset Date. This date is nominated in Item 6 of **Schedule Two**.

### **Procurement Guidelines**

HCCDC has identified which procurement guidelines the Applicant is required to comply with and these guidelines are specifically referred to in **Schedule Five**. On or before the Applicant receives payment of the Contribution Amount, the Applicant must provide HCCDC with a certificate signed by the Applicant (in a form acceptable to HCCDC) stating that the Applicant has complied with the NMGF Procurement Guidelines [see clause 3.10].