



Deed

(DPIPWE Ref 113175A)

The Honourable Jacqueline Anne Petrusma MP
(being and in her capacity as Minister administering the Act)
(Minister)

and

Wild Drake Pty Ltd
(Operator)

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Deed

Details and recitals

Date: 2 June 2022

Parties:

Name **The Honourable Jacqueline Anne Petrusma MP**
(being and in her capacity as Minister administering the *National Parks and Reserves Management Act 2002 (Tas)*)

Short form name **Minister**

Notice details C/- Department of Natural Resources and Environment Tasmania,
GPO Box 44 Hobart, Tasmania, 7001

Name **Wild Drake Pty Ltd**

ACN 623 714 545

Short form name **Operator**

Notice details P.O. Box 1061, [REDACTED]
[REDACTED]
7250 Telephone: (07) 413 7071
[REDACTED]
Attention: Daniel Hackett

Recitals:

- A. The parties have agreed to enter into this Deed to vary certain terms of the Agreement in accordance with this Deed.

Operative provisions

The parties agree as follows:

1 Definitions and interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Act means the *National Parks and Reserves Management Act 2002 (Tas)*.

Agreement means the agreement providing for lease and licence rights made between the Honourable Elise Nicole Archer, the then Minister administering the Act and the Operator, a copy of which is included in Attachment 1, as previously amended by the Variation Letters.

Deed means this instrument of deed and includes all its annexures.

Details means the details and recitals set out above.

Government Body includes a body politic, a government (federal, state or local), a governmental, judicial or administrative body, a tribunal, a commission, a department or agency of any government, and a statutory authority or instrumentality.

GST means any goods and services tax or similar tax imposed by the Commonwealth of Australia (but excluding any penalty, fine, interest or similar payment).

GST Laws means applicable Laws relating to GST.

Law means:

- (a) principles of law or equity established by decisions of courts;
- (b) legislation and subordinate legislation; and
- (c) requirements, approvals (including conditions) and guidelines of any Government Body that have force of law.

Right includes a right, a power, a remedy, a discretion or an authority.

Variation Letters means the letters dated:

- (a) 6 July 2018 from the Minister to the Operator, as countersigned by each of the Minister and the Operator;
- (b) 19 December 2018 from the Minister to the Operator, as countersigned by each of the Minister and the Operator; and
- (c) 16 May 2019 from the Minister to the Operator, as countersigned by each of the Minister and the Operator,

included as Attachment 2.

1.2 Definitions contained in the Agreement

Terms defined in the Agreement have the same meanings when used in this Deed:

- (a) unless the term is given a different meaning in this Deed; or

- (b) the context otherwise requires.

1.3 Interpretation

In this Deed, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) words importing a gender include all genders;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
- (d) a reference to a thing (including property or an amount) is a reference to the whole and each part of that thing;
- (e) a reference to a group of persons includes a reference to any one or more of those persons;
- (f) a reference to an annexure, an appendix, an attachment, a schedule, a party, a clause or a part is a reference to an annexure, an appendix, an attachment, a schedule or a party to, or a clause or a part of, this Deed;
- (g) a reference to any legislation or legislative provision includes subordinate legislation made under it and any amendment to, or replacement for, any of them;
- (h) writing includes marks, figures, symbols, images or perforations having a meaning for persons qualified to interpret them;
- (i) a reference to a document includes:
 - (i) any thing on which there is writing;
 - (ii) any thing from which sounds, images or writings can be reproduced with or without the aid of any thing else;
 - (iii) an amendment or supplement to, or replacement or novation of, that document; or
 - (iv) a map, plan, drawing or photograph;
- (j) a reference to an agreement includes an undertaking, deed, agreement or legally enforceable arrangement or understanding, whether or not in writing;
- (k) a reference to a 'person' includes a natural person, a partnership, a body corporate, a corporation sole, an association, a Government Body, or any other entity;
- (l) a reference to a party includes that party's executors, administrators, successors and permitted assigns and substitutes;
- (m) a reference to a Minister includes, as applicable, that Minister's predecessors and successors in office;
- (n) a reference to a Government Body or other body or organisation that has ceased to exist, or that has been renamed, reconstituted or replaced, or the powers or functions of which have been substantially transferred, is taken to refer respectively to the Government Body or other body or organisation as renamed or reconstituted, or established or formed in its place, or to which its powers or functions have been substantially transferred;

- (o) a reference to an office in a Government Body or other body or organisation includes any person acting in that office, and if the office is vacant, the person who for the time being is substantially responsible for the exercise of the duties, functions or powers of that office;
- (p) mentioning any thing after the words 'includes', 'included' or 'including' does not limit the meaning of any thing mentioned before those words;
- (q) a reference to a day is to be interpreted as the period of time in Tasmania commencing at midnight and ending 24 hours later;
- (r) reference to a time or date in connection with the performance of an obligation by a party is a reference to the time or date in Hobart, Tasmania, even if the obligation is to be performed elsewhere; and
- (s) references to '\$' and 'dollars' are to Australian dollars.

1.4 Headings

Headings are included for convenience only and do not affect the interpretation of this Deed.

1.5 No rule of construction applies to disadvantage party

In relation to the interpretation of this Deed, no rule of construction is to apply to the disadvantage of a party because that party was responsible for the preparation of this Deed or any part of it.

2 Variation to Agreement

2.1 Variations regarding Definitions

The Minister and the Operator agree to amend the Agreement by insertion of a new definition in clause 1.1 of the Agreement as follows:

EPBCA means the *Environmental Protection Biodiversity Conservation Act 1999* (Cth).

2.2 Variations regarding Approval requirements and applicable dates

The Minister and the Operator agree to amend the Agreement as follows:

- (a) Delete clause 2.1(a) of the Agreement and insert the following clause as the new clause 2.1(a):

“(a) ***Environmental Protection Biodiversity Conservation Act 1999*** (Cth):

That the Operator has made all necessary referrals to the Minister administering the EPBCA regarding the proposed Development on the Land and provided all plans, assessment reports and other requested or required materials and information necessary for the purposes of the EPBCA (that are in accordance with the terms of this Agreement and any reasonable directions given by the Minister (if any)) by no later than 30 June 2022 (or such later date (if any) as the Minister in the Minister’s absolute discretion approves in writing, noting that the Minister will not unreasonably withhold consent to extending the date, if the failure to comply with this clause 2.1(a) is due to the Minister administering the EPBCA requesting further information or materials from the Operator after 30 June 2022, and the Operator is responding to all such requests within a reasonable timeframe and without undue delay) to enable the

Minister administering the EPBCA to decide whether or not to give approval for the Operator to carry out the Development on the Land pursuant to Part 9 of the EPBCA.

- (b) Delete clause 2.1(b) of the Agreement and insert the following clause as the new clause 2.1(b):

(b) **Development Approval:**

That the Operator:

- (i) submits an application (that is in accordance with the terms of this Agreement and any reasonable directions given by the Minister (if any)) containing all necessary materials and information to the Central Highlands Council reasonably required for the obtaining of Development Approval by no later than 30 April 2023 or such later date (if any) as the Minister in the Minister's absolute discretion approves in writing; or
- (ii) has demonstrated to the Minister (to the Minister's absolute satisfaction, including by providing all supporting documentation that may be requested by the Minister) by no later than 30 April 2023 (or such later date (if any) as the Minister in the Minister's absolute discretion approves in writing) that, taking into account the terms of the applicable planning scheme and the terms of this Agreement, Development Approval is not required for the carrying out of the Development on the Land."

- (c) Insert the following clause as a new clause 2.1(c):

"(c) **Obtaining Approvals and notification requirements:**

- (i) The Operator must within 10 Business Days after receiving a relevant response in respect of each such application for that Approval required under clause 2.1(c)(i), notify the Minister in writing of the outcome of such decision and if the relevant Approval was not granted, or granted but not on terms and conditions satisfactory to the Operator, whether the Operator will be seeking to commence any appeal process regarding such outcome.
- (ii) The Operator must obtain both (subject to clause 2.2) approval pursuant to Part 9 of the EPBCA and Development Approval from the Central Highlands Council for the Operator to carry out the Development on the Land following the making of the applications referred to in clauses 2.1(a) and 2.1(b) on terms and conditions satisfactory to both the Operator and Minister, both acting reasonably."

- (d) Insert the following clause as a new clause 2.1(d):

"(d) **RAA requirements**

The Operator must, (taking into account the matters set out in clause A2.3 of Schedule A of the Agreement);

- (i) within 3 months of full satisfaction of clause 2.1(c)(ii), submit to the Minister completed Reserve Activity Assessment (**RAA**)

documentation that is prepared to the best of the Operator's knowledge and that includes relevant details of the Development for the Minister's consideration taking into account the terms of any Approvals previously given in respect of the Development and this Agreement (and which RAA documentation may either be submitted in the format originally required by the Agreement as at the date the Agreement was originally entered into, or be submitted in the form of an Environmental Impact Statement (with supporting documentation) that is at the date hereof the format used for RAA matters) to the satisfaction of the Minister (acting reasonably));

- (ii) obtain approval to the RAA documentation provided in accordance with clause 2.1(d)(i) provided that:
 - (A) the assessment of, and any decision as to whether to approve, the RAA documentation provided under clause 2.1(d)(i) is acknowledged to remain at the absolute discretion of the Director of Parks and Wildlife being the entity responsible for approving such RAA documents; and
 - (B) if the Operator is requested at any time by the Director of Parks and Wildlife to provide any information, clarification and/or amendment in respect of the RAA documentation it has submitted under clause 2.1(d)(i) the Operator must use all reasonable endeavours to provide that further information, clarification and/or amendment within the time requested for doing so.”

(d) Renumber the original clauses 2.1(c) and 2.1(d) as clauses 2.1(e) and 2.1(f) respectively.

(e) Delete clause 2.2 of the Agreement and insert the following clause in its place:

“2.2 Appeal matters

Notwithstanding the requirements of clause 2.1 (but subject always to the matters in clause 2.3), in the event that:

- (a) the Operator fails to obtain either or both of the Approvals sought under the applications made under clauses 2.1(a) and 2.1(b) as required by clause 2.1(c)(ii) in the first instance, (or such are obtained on terms not satisfactory to the Operator and/or Minister both acting reasonably) then if the Operator gives proper notice in accordance with clause 2.1(c)(i) and appeals such non granting of the relevant Approval (or any terms of that Approval) in accordance with all relevant Laws to the relevant Government Body following relevant and proper procedure in a prompt and timely manner, but in any event to have lodged all appeal applications within the lesser of:
 - (i) 20 Business Days; or
 - (ii) the time allowed for lodging such an appeal application imposed at Law or by any relevant Government Body;

the Operator will not be in breach of clause 2.1(c)(i) at any time while such appeal process is ongoing until its conclusion or

discontinuance, and will be taken to have satisfied clause 2.1(c) if at such time of the appeal processes conclusion or discontinuance, the Operator has obtained the relevant Approval in respect of the Development;

- (b) the Operator obtains either or both of the Approvals sought under the applications made under clauses 2.1(a) and 2.1(b) as required by clause 2.1(c)(ii) in the first instance (or obtains such an Approval after taking appeal action of the type referred to in clause 2.2(a)), but such is subject to an appeal by a third party, then if the Operator seeks to defend the granting of the relevant Approval in such an appeal process in accordance with all relevant Laws with the relevant Government Body following relevant and proper procedure in a prompt and timely manner (including in respect of appealing any decision that is contrary to the Operator), the Operator will not be in breach of clause 2.1(c)(i) at any time while such appeal process is ongoing until its conclusion or discontinuance, and will be taken to have satisfied clause 2.1(c) if at such time of the appeal processes conclusion or discontinuance, the Operator has the relevant Approval in respect of the Development.”

- (f) Insert a new clause 2.3 of the Agreement as follows:

“2.3 Termination and associated matters

Without limiting any of the Rights of termination the Minister may have under any other provisions of this Agreement (in particular under clause 19), under the Act or otherwise available at Law:

- (a) this Agreement will, on any of the events specified in Column One of the following table occurring, automatically terminate (without need for any further action of the parties) at the time specified in the corresponding entry in Column Two of the following table:

	Column One (Event leading to termination)	Column Two (Time termination is effective)
1.	The giving of notice under clause 2.1(c)(i) to the Minister that specifies that either (or both) approval pursuant to Part 9 of the EPBCA or Development Approval from the Central Highlands Council for the Operator to carry out the Development on the Land has not been granted as required by clause 2.1(c)(ii), or if so granted, on terms not satisfactory to the Operator (acting reasonably), and the Operator will not be appealing such lack of giving of Approval or the terms thereof.	At the time of receipt by the Minister of any such notice given by the Operator under clause 2.1(c)(i)
2.	If the Operator fails to give notice under clause 2.1(c)(i) to the Minister in the time allowed for doing so and the Operator has not obtained approval pursuant to Part 9 of the EPBCA or	At the time immediately after the last day on which the Operator has to give

	Development Approval from the Central Highlands Council for the Operator to carry out the Development on the Land has not been granted as required by clause 2.1(c)(i).	notice under clause 2.1(c)(i).
3.	If notice is given by the Operator under clause 2.1(c)(ii) that specifies the Operator is going to take appeal action in respect of the non-granting of any Approval, or as to the terms of any Approval so granted as required by clause 2.1(c), but the Operator fails to do so in accordance with clause 2.2(a).	At the time immediately after the period specified in clause 2.2(a) for commencing appeal action ends.
4.	On a decision of the Tasmanian Parks and Wildlife Service not to approve the RAA documentation provided by the Operator under clause 2.1(d) (so as to provide that the Development as proposed is not to proceed) and where there is no allowance for any modification of the RAA documentation by the Operator.	At the time of receipt by the Operator of any such notice informing the Operator of such decision.

- (b) The Minister may terminate this Agreement by notice in writing to the Operator (in which case the Agreement will terminate at the time the Operator receives the Minister's notice in accordance with clause 23, or at any such later time specified in that notice) if:
- (i) any of the conditions subsequent in clause 2.1(a), 2.1(b), 2.1(c)(i), 2.1(d)(i) or 2.1(d)(ii)(B) are not satisfied by the date for the satisfaction of that condition subsequent; or
 - (ii) the Operator is a party to an appeal process in either of the circumstances under clauses 2.2(a) or 2.2(b) and the Operator:
 - (i) at any time fails to diligently and without undue delay progress such appeal process to its conclusion;
 - (ii) abandons such appeal process at any time (including in respect of any defence of an Approval given to the Operator); or
 - (iii) is unsuccessful under any decision handed down by a Government Body under such so that the relevant Approval is taken as not having been granted to the Operator on terms and conditions satisfactory to both the Operator and Minister, both acting reasonably, as at the time of that decision and no further rights of appeal exist, or the Operator fails to make or continue as relevant any relevant further appeal process within the time allowed for doing so."
- (g) Renumber clause 2.3 as clause 2.4, replace the words "if the Minister terminates" with the words "In the event of any termination of" at the start of such clause, and change the references to clause 2.2 and clause 2.4 to clause 2.3 and clause 2.5 respectively.

(h) Renumber clause 2.4 as clause 2.5, and replace the words “its reasonable endeavours ... in clause 2.1(a)) with the words: “all reasonable endeavours to comply with the requirements of clause 2.1 (and clause 2.2 (as relevant))” and deleting the words “and any appeals and objections”.

(i) Insert a new clause 2.6 of the Agreement as follows:

2.6 Other matters

(a) If the Minister considers, acting reasonably, the terms of any approval pursuant to Part 9 of the EPBCA or Development Approval from the Central Highlands Council for the Operator to carry out the Development on the Land are not satisfactory, then:

(i) the Minister must give the Operator notice of such position within 15 Business Days of having received notice from the Operator under clause 2.1(c)(ii) concerning that Approval, otherwise the Minister’s approval will be deemed to have been provided;

(ii) if the Minister gives such notice, clauses 2.2 (and subsequently clauses 2.3 to 2.5) will have operation in such circumstances;

(b) If there is a decision made pursuant to the EPBCA that the Development is not a controlled action for the purposes of the EPBCA, then the Operator does not need to comply with clause 2.1(a) nor obtain consent under Part 9 of the EPBCA as required by clause 2.1(c) and all other provisions of this clause 2 are to be taken as amended *mutatis mutandis* to give effect to the matters set out in this clause 2.6(b);

(j) Amend the definition of 'Date for Substantial Commencement' in clause A1.1 of Schedule A by changing the date referred to therein to that date being six (6) months of receiving approval to RAA documentation in accordance with clause 2.1(d) of the Agreement, so that such definition is in the following form:

“Date for Substantial Commencement means the date on or by which the Operator must have substantially commenced construction of the Development Works on the Land, being that date which is 6 months after the date on which the RAA documentation in respect of the Development is approved as required by clause 2.1(d).”

(k) Amend the definition of 'Date for Project Practical Completion' in clause A1.1 of Schedule A by changing the date referred to therein to that date being twelve (12) months of when the Operator substantially commenced construction of the Development Works on the Land in satisfaction of clause A3.1(a), so that such definition is in the following form:

“Date for Practical Completion means the date on or before which the Development Works must reach Practical Completion, being that date which is twelve months after the date on which the Operator substantially commenced construction of the Development Works on the Land in satisfaction of clause A3.1(a).

(l) By deleting clause A5 of Schedule A in its entirety.

2.3 Variation regarding RAA requirements

The parties acknowledge and agree that:

- (a) the Operator is required to resubmit a Reserve Activity Assessment (“RAA”) in respect of the Development (as provided for at clause 2.2(d) of this Deed);
- (b) the Reserve Activity Assessment referred to in the original draft of the Agreement at clause A2.3 and attached thereto is to be taken to be of no effect;
- (c) notwithstanding subclause (b), the Reserve Activity Assessment process will be taken to however have commenced at the time the original RAA was first commenced, and the Operator may use the same format as that originally completed Reserve Activity Assessment process, or using the Environmental Impact Statement (with supporting documentation) that is at the date hereof the format generally used for RAA matters), at the Operator’s discretion in fulfilling the new clause 2.1(d) of the Agreement (as provided for at clause 2.2(d) of this Deed); and
- (d) the Operator has conducted further investigations since the Reserve Activity Assessment referred to in the original draft of the Agreement at clause A2.3 and attached thereto was originally completed and the results of such further investigations are to be represented in the Reserve Activity Assessment to now again be submitted in accordance with the new clause 2.1(d) of the Agreement (as provided for at clause 2.2(d) of this Deed);

and accordingly, the Minister and the Operator agree to amend the Agreement by deleting clause A2.3 of Schedule A of the Agreement (and removing the RAA document originally attached to the Agreement) and inserting the following new clause A2.3:

“A2.3 RAA

The Operator must at all relevant times during the Term comply with all terms and conditions of the RAA documentation approved in accordance with clause 2.1(d) of this Agreement.”

2.4 Variation regarding clarifying nature of the Development

The parties acknowledge and agree that:

- (a) the intent remains that the Development provide for standing camp accommodation in accordance with the requirements of the Parks and Wildlife Service’s Standing Camp Policy of December 2006;
- (b) at the time of lodging the original RAA, the assessment performed by the Parks and Wildlife Service relied upon the 2006 Standing Camp Policy (referred to in subclause (a)) which was at that time the current and approved policy position; and
- (c) so as to give greater clarification to the intent specified in subclause (a), the parties agree to vary the Agreement by way of all references in the Agreement to “hut accommodation” are to be replaced with a reference to “Standing Camp Accommodation”, with a definition of “Standing Camp Accommodation” inserted into clause 1.1 of the Agreement as follows:

“Standing Camp Accommodation means a temporary commercial bush camp of a type that provides visitors with a level of comfort and accessibility on an overnight guided tour above that which would normally be achievable as an independent free traveller.”

and the Agreement generally is to be interpreted as requiring the accommodation proposed as part of the Development to be in accordance with the requirements of the Parks and Wildlife Service’s Standing Camp Policy of December 2006.

2.5 Variation regarding Rent payment dates

The parties acknowledge and agree that:

- (a) payment of Rent pursuant to clause 5 of the Agreement has been made and received for the period from the Commencement Date to 19 January 2022;
- (b) it is intended that the first market rent review still occur on the fifth anniversary of the Commencement Date, being 19 January 2023, however it is now intended that there be certain amendments to the Rent regime set out in the Agreement including that such review on 19 January 2023 set the Rent amount for the period up to and including Practical Completion of the Development Works occurring, with the next market rent review to occur on the next 19 January date occurring after the Date of Practical Completion and further market rent reviews occurring every five years thereafter;

and accordingly, the Minister and the Operator agree to amend the Agreement by:

- (c) Inserting a new definition of Rent Review Date in clause 1.1 of the Agreement as follows:

“**Rent Review Date** means any or all of the following dates (as the context requires):

- (a) 19 January 2023;
- (b) the date of the first anniversary of the Commencement Date occurring after the Date of Practical Completion; and
- (c) the third anniversary of that date set out in subclause (b) and each third anniversary of that date thereafter occurring during the Term.”
- (d) the words “the Date of Practical Completion” are deleted in clause 5(a) and replaced with the words “the first occurring Rent Review Date, subject to adjustment through such period in accordance with clause 5(c)” added after the words “Date of Practical Completion”;
- (e) the text of clause 5(b) of the Agreement is to be taken as deleted and replaced with the words “not used”;
- (f) the words “for the period referred to in clause 5(a)” are inserted before the words “Rent will be varied ...” in clause 5(c) of the Agreement;
- (g) clause 5(d) of the Agreement is amended by deleting the first sentence of clause 5(d) and replacing such sentence with the following:

“the Rent will be adjusted to a reviewed Rent amount taking effect on each Rent Review Date with a new reviewed Rent to apply from each such Rent Review Date, being the amount recommended by a Valuer as being:

- (i) in respect of the first such Rent Review Date, the appropriate current market rental value for the period up to and including Practical Completion of the Development Works occurring; and
- (ii) in respect of all such Rent Review Dates after the first, the appropriate current market rental value for the following five years (or to the expiration of the Agreement) from that effective rent review date,

taking into the account the matters set out in clause 5(f).

2.6 Variation regarding boat usage

The parties seek to formalise matters concerning the use of vessels to reach Halls Island pursuant to the Agreement and accordingly the Minister and the Operator agree to amend the Agreement by inserting an new clause 12.17 as follows:

“12.17 Boat usage

The Operator may access Halls Island, both with Clients and without, at all times during the Term by way of a non-motorised vessel propelled by rowing provided that:

- (a) all Clients are appropriately briefed (including as to safety matters) before being transported by such a vessel;
- (b) all persons being transported on such vessel possess and use all appropriate safety equipment (including appropriate life jackets) as required by all relevant Laws and Government Bodies (including Marine and Safety Tasmania);
- (c) any such vessel so used (and associated safety and other equipment) is checked by the Operator prior to use to ensure all is (as relevant) in good repair and condition, of a suitable quality and standard for the purpose for which it is to be used and compliant with all relevant Laws, Approvals, safety standards and relevant Australian Standards;
- (d) that all Approvals that are relevant to the use of such a vessel have been obtained from any relevant Government Body (including Marine and Safety Tasmania) prior to the Operator using such vessel at any time and the terms of all such Approvals are subsequently complied with by the Operator throughout the Term
- (e) such vessel departs only from that location having co-ordinates 442070E;5355165N (GDA94 MGA55 approximate) when travelling to Halls Island, and is moored only at (subject to subclause (f)) at that location at Halls Island having co-ordinates 441980E;5355316N (GDA94 MGA55 approximate);
- (f) the Operator may, where there is any reasonable need arising from any maintenance and repair required for same operation of the vessel or severe weather conditions, may also move and leave the vessel at that location having co-ordinates 441993E;5355389N (approximate);
- (g) such method of access to and from Halls Island as provided for in this clause 12.17 are in addition to (and does not limit in any way) any other method of access provided for in this Agreement (including those provided for in clause C4 of this Agreement);
- (h) the Minister’s decision (acting reasonably) will be final and binding as to the exact location of those location sites referred to in subclauses (e) and (f) in the case of any dispute; and
- (i) use of motorised water based vessels to access Halls Island over Lake Malbena is not permitted by this clause 12.17.

2.7 Cost matters

The parties acknowledge and agree for the avoidance of doubt that should any appeal matters of the type referred to in clause 2.2 of the Agreement (as inserted by this Deed at clause 2.2(e) of this Deed) occur and the Minister is made a party to any litigation or other action associated with any such appeal, then clause 7.5 has application to any costs incurred by the Minister in such circumstances.

2.8 Time of effect

Unless expressly provided for otherwise, the variations and matters referred to in clauses 2.1 to 2.7 of this Deed inclusive take effect on the date hereof.

2.9 No other changes

No other changes to the Agreement are made.

2.10 Confirmation

The parties confirm and agree that:

- (a) as at the date of this Deed, the Agreement continue in full force and effect; and
- (b) the execution and exchange of this deed does not constitute a waiver of any Rights that a party has against another party in connection with the non-performance by that other party of any obligation (of that other party) under the Agreement (as amended by the Variation Letters).

2.11 No surrender by operation of Law

- (a) The parties intend the variations to the Agreement made in accordance with this Deed, will not operate to surrender the Agreement.
- (b) If despite clause 2.11(a), the variation of Agreement, made by this Deed, cause the Agreement to be surrendered by operation of law, the parties agree that, by executing this Deed, they have entered into a new Agreement in respect of the Premises:
 - (i) for a term commencing on the date of this Deed and ending on the date when the Agreement would otherwise have expired by effluxion of time; and
 - (ii) otherwise upon and subject to the terms and conditions of the Agreement (which are taken to be incorporated in this Deed) and this Deed.

3 GST

- (a) Unless otherwise stated in this Deed, all amounts payable by one party to another party are exclusive of GST.
- (b) If GST is imposed or payable on any supply made by a party under this Deed, the recipient of the supply must pay to the supplier, in addition to the GST exclusive consideration for that supply, an additional amount equal to the GST exclusive consideration multiplied by the prevailing GST rate. The additional amount is payable at the same time and in the same manner as the consideration for the supply.
- (c) A party that makes a taxable supply under this Deed must provide a valid tax invoice to the recipient of the supply.
- (d) A party's right to payment under clause 3(b) is subject to a valid tax invoice being delivered to the party liable to pay for the taxable supply.
- (e) If the consideration for a supply under this Deed is a payment or reimbursement for, or contribution to, any expense or liability incurred by the supplier to a third party, the amount to be paid, reimbursed or contributed in respect of the expense

or liability will be the amount of the expense or liability net of any input tax credit to which the supplier is entitled in respect of the expense or liability.

- (f) Where any amount payable under this Deed is paid by being set-off against another amount, each amount must be calculated in accordance with this clause 3 as if it were an actual payment made pursuant to this Deed.
- (g) Unless the context otherwise requires, expressions used in this clause 3 that are defined in the GST Laws have the meanings given to those expressions in the GST Laws.

4 Miscellaneous

4.1 General acknowledgment

The parties acknowledge that any obligation imposed upon the Minister under this Deed does not fetter the future exercise of any right, discretion by the Minister and the provisions of this Deed must be read accordingly.

4.2 Governing law

This Deed is governed by the Laws applying in Tasmania.

4.3 Dispute jurisdiction

The parties submit to the non-exclusive jurisdiction of courts with jurisdiction in Tasmania, and any courts that may hear appeals from those courts, in respect of any proceedings in connection with this Deed.

4.4 Liability

An obligation of, or a representation, a warranty or an indemnity by, two or more parties (including where two or more persons are included in the same defined term) under or in respect of this Deed, binds them jointly and each of them severally.

4.5 Severance

If any provision of this Deed is or at any time becomes illegal, prohibited, void or unenforceable for any reason, that provision is to be read down so as to no longer be illegal, prohibited, void or unenforceable, and if not capable of being read down in such manner, severed from this Deed and the remaining provisions of this Deed:

- (a) continue to be enforceable; and
- (b) are to be construed with such additions, deletions and modifications of language as are necessary to give effect to the remaining provisions of this Deed.

4.6 Counterparts

- (a) This Deed may be entered into in any number of counterparts.
- (b) A party may execute this Deed by signing any counterpart.
- (c) All counterparts, taken together, constitute one instrument.

4.7 Further assurance

The parties agree to do or cause to be done all such acts, matters and things (including, as applicable, passing resolutions and executing documents) as are necessary or reasonably required to give full force and effect to this Deed.

4.8 Legal costs

The parties must pay their own costs associated with the negotiation drafting and completion of this Deed.

4.9 Amendment

This Deed may only be amended or supplemented in writing signed by the parties.

4.10 Waiver

- (a) A failure or delay in exercising a Right does not operate as a waiver of that Right.
- (b) A single or partial exercise of a Right does not preclude any other exercise of that Right or the exercise of any other Right.
- (c) A Right may only be waived in writing, signed by the party to be bound by the waiver. Unless expressly stated otherwise, a waiver of a Right is effective only in the specific instance and for the specific purpose for which it was given.

4.11 Successors and assigns

This Deed is binding on and benefits each party and, unless repugnant to the sense or context, their respective administrators, personal representatives, successors and permitted assigns.

4.12 Rights cumulative

Each Right provided for in this Deed:

- (a) operates independently of any other Right provided for in this Deed; and
- (b) is cumulative with, and does not exclude or limit, any other Right, whether at Law or pursuant to any other agreement, deed or document.

4.13 Disclosure

- (a) Despite any confidentiality or intellectual property right subsisting in this Deed, a party may publish all or any part of this Deed without reference to another party.
- (b) Nothing in this clause derogates from a party's obligations under the *Personal Information Protection Act 2004* (Tas) or the *Privacy Act 1988* (Cwlth).

4.14 Doctrine of merger

The doctrine or principle of merger does not apply to this Deed or to anything done under or in connection with this Deed. Accordingly, no Right or obligation of a party is merged in any thing done pursuant to this Deed.

4.15 No interference with executive duties or powers


Nothing in this Deed is intended to prevent, is to be taken to prevent, or prevents, the free exercise by the Governor, by any member of the Executive Council, or by any Minister of the Crown, of any duties or authorities of his or her office. Any provision of this Deed that is inconsistent with this clause is of no legal effect to the extent of the inconsistency.

Executed as a deed

Signing


Signing by Minister

Signed as a deed for **The Crown in Right of Tasmania** (acting through the Minister administering the *National Parks and Reserves Management Act 2002* (Tas)) by the person named below in the presence of the witness named below:

Signature: →		
*Print name:	JASON JACOBI	Witness' signature: →
*Position and Position Number:	AD DIRECTOR NATIONAL PARKS & WILDLIFE 2006	*Witness print name and position: TRACEY SIMPSON SENIOR EXECUTIVE OFFICER
Please complete:	Acting pursuant to an Instrument of DELEGATION dated 28 SEPTEMBER 2021	
*Use BLOCK LETTERS		*Witness print address: 9/134 MACQUARIE ST HOBART, TAS

Signing by Operator

Executed as a deed by **Wild Drake Pty Ltd (ACN 623 714 545)** in accordance with section 127(1) of the *Corporations Act 2001* (Cwlth):

Signature:
→ 

Signature:
→ 

*Print name and office held:
**Daniel Hackett
Sole Director
Sole Company Secretary**

*Print name and office held:


*Use BLOCK LETTERS

Note: In the case of a company that has only one director and one secretary, show the office held as 'SOLE DIRECTOR AND SOLE COMPANY SECRETARY'

Attachment 1: Agreement

Attachment 2: Variation Letters
